

SUPREME COURT OF INDIA

Muzaffarpur Electric Supply Co. Ltd.

Vs.

Muzaffarpur Electric Supply Workers' Union

C.A.No.14 of 1958

(B. P. Sinha, P. B. Gajendragadkar and K. N. Wanchoo, JJ.)

23.04.1959

JUDGEMENT

P. B. GAJENDRAGADKAR J.:

1. This appeal by special leave raises the same points which we had to consider in the case of the Patna Electric Supply Co., Ltd. v. Patna Electric Supply Workers' Union, Civil Appeal No. 227 of 1958, D/- 23-4-1959: (AIR 1959 SC 1035). In that case we have held that the tribunals were not justified in imposing on the employer company the obligation of constructing quarters for its employees and we have dealt at length with the effect of the scheme sanctioned by the Bihar Government and other points raised by the parties before us. The same points fall to be considered in the present appeal, and for the reasons which we have indicated in the case of the Patna Electric Supply Co., Ltd., (AIR 1959 SC 1035) (supra), the same result must follow in the present appeal.

2. The appellant in the present case is the Muzaffarpur Electric Supply Co., Ltd. The demand made by its employees for housing accommodation gave rise to the present industrial dispute. The tribunal directed the appellant to construct at least 12 quarters according to the specifications laid down in the scheme within one year from the date of the publication of the award. This part of the award was challenged by the appellant before the Labour Appellate Tribunal; but the appellate tribunal agreed with the view taken by the tribunal and rejected the appellant's contention. It is against the award thus confirmed by the appellate tribunal that the present appeal by special leave has been preferred.

3. At the hearing of this appeal Mr. Jai Krishan, for the respondent, raised a preliminary objection. He contended that the appeal as filed is incompetent inasmuch as the respondent is not properly described. Instead of describing the respondent as the workmen of the appellant represented by the Muzaffarpur Electric Supply Workers' Union, the appellant has impleaded the Union itself as the respondent. In our opinion this objection is purely technical and must be rejected. It would no doubt have been more accurate to describe the respondent as the appellant's workmen represented by the Union but we do not think that in the circumstances of this case such a misdescription of the respondent can make the appeal incompetent. Therefore the preliminary objection raised by Mr. Jai Krishan cannot be accepted.

4. Then it was urged by the respondent that several employers in Bihar have been directed to provide housing accommodation to their workmen and the argument was that so far as the State of Bihar is concerned the scheme sanctioned by the Bihar Government has been enforced by industrial

tribunals. We do not propose to express any opinion about the other awards that may have been passed issuing similar directions; but as we have held in the case of the Patna Electric Supply Co. Ltd., (AIR 1959 SC 1035) (supra), the scheme sanctioned by the Bihar Government cannot in the present circumstances of industry in Bihar be enforced and an obligation cannot be imposed on the employer requiring him to construct quarters for his employees. That is why we do not think reference to any other awards where such an obligation may have been imposed can assist the respondent.

5. In this particular case it is remarkable that both the tribunals have concurrently found that the financial position of the appellant is far from satisfactory. In fact the claim made by the respondent for the revision of the wage-structure has been rejected specifically on the ground that the financial condition of the appellant would not justify the imposition of any further burden on it by way of increasing the wages of its employees. Even so the tribunals took the view that the scheme sanctioned by the Bihar Government had to be enforced and that the expenditure involved in implementing the scheme should be treated as a capital expenditure of an imperative nature. We are unable to accept this view. We must, therefore, hold that the award under appeal cannot be sustained and must be set aside.

6. The appeal is accordingly allowed but there will be no order as to costs. The learned Attorney-General fairly did not press for the appellant's costs.

Appeal allowed.

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