SUPREME COURT OF INDIA

Kapoor and Co.

Vs.

Workmen of Kapoor and Co.

C.A.No.697 of 1957

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

07.05.1959

JUDGEMENT

WANCHOO J.:

1. This is an appeal by special leave against the decision of the Labour Appellate Tribunal in an industrial matter. The appellant Messrs. Kapoor and Co. (hereinafter called the company) is an industrial concern engaged in manufacturing lace of all kinds. The respondents are the workmen employed by the company as represented by the Lace Workers' Union, Delhi. An industrial dispute arose between the company and its workmen, and it was referred to the Industrial Tribunal by the Delhi State Government on 6-11-1954. Four matters were the subject of reference, of which only one has been urged in this appeal before us and we shall confine ourselves to that. It relates to the demand for profit bonus equal to two months' wages for the years 1952 and 1953. It appears that soon after the reference reached the Industrial Tribunal, an agreement was arrived at on 27-11-1954 between the workmen represented by the union and the company on all the matters which were the subject of reference. So far as bonus was concerned, the agreement was that the company would pay three weeks' wages by way of bonus for the year 1952 and that the question of bonus for the year 1953 would be settled later between the company and its workmen. This agreement was, however, repudiated by the workmen in December 1954 and in consequence the Industrial Tribunal proceeded to adjudicate upon the matter. By its award dated 8-8-1955, it held that no bonus could be paid for these two years as there was no available surplus of profit to justify it. It, however, expressed the hope that the company would not ask for the refund of three weeks' wages already paid as bonus under the agreement and would grant that as an 'ex gratia' payment to the workmen.

2. There was an appeal by the workmen against this award to the Labour Appellate Tribunal, which was allowed and the workmen were ordered to be given one month's salary as bonus for the years 1952 and 1953, irrespective of the fact that the accounts of the two years did not show any available surplus. Thereupon the company applied for special leave to appeal to this Court, which was granted; and that is how the matter has come before us.

3. The main contention of the company is that the Appellate Tribunal erred in law in granting profit bonus for one month each for the years 1952 and 1953, when it was apparently of opinion that the accounts of the two years did not show any available surplus. It is contended that the grant of profit bonus depends upon the availability of surplus as worked out according to the Full Bench formula evolved in the Mill-Owners Association, Bombay v. Rashtria Mill Mazdoor Sangh, Bombay, 1959 Lab LJ 1247 (L A T I-Bom). That formula has been the subject of consideration by this Court

recently in Associated Cement Companies Ltd., Dwarka v. Their Workmen, C. A. No. 459 of 1957, D/- 5-5-1959: (AIR 1959 SC 967) and has been approved. The Labour Appellate Tribunal, therefore, was not right when it decided to give one month's bonus for these two years, irrespective of the availability of any surplus.

4. Learned counsel for the respondents, however, submitted that the balance-sheet and the Profit and Loss Account filed by the company were not reliable and wanted to challenge various items in these accounts. We did not permit him to do so, because, in the first place, as held in The Associated Cement Companies case, C. A. No. 459 of 1957, D/- 5-5-1959: (AIR 1959 SC 967) the amount of gross profits taken from the profit and loss account should as a general rule, be accepted without submitting the statement to a close scrutiny, except where it appears that entries have been made on the debit side deliberately and 'mala fide' to reduce the amount of gross profits, and, in the second place, no attempt was made to challenge any particular entry before the Industrial Tribunal as having been made mala fide to reduce the amount of gross profits. The only item which appears to have been canvassed before the Appellate Tribunal was the salary of the proprietor who also works as manager. But that item cannot in the circumstances be challenged, for the amount would have to be spent if any other person had been employed as a manager. In the circumstances, we must proceed on the assumption that the balance-sheets and the profit and loss accounts for the two years have to be accepted as correct.

5. So far as the year 1952 is concerned, the accounts show that there was a surplus of Rs. 4,557.30. The monthly wage-bill is said to be into the neighbourhood of Rs. 4,000. In the circumstances we are of opinion that three weeks' wages already paid by the company by way of bonus on the basis of the agreement of 27-11-1954, which was later on repudiated, were ample to meet the claim of profit bonus for that year and there was no case for increasing the amount beyond that. As for the year 1953, there was no available surplus at all and in the circumstances the Appellate Tribunal erred in granting bonus for that year. The appeal, therefore, will have to be allowed partly and the order of the Appellate Tribunal modified accordingly. We, therefore, allow the appeal and set aside the order of the Appellate Tribunal granting bonus for the year 1953 and modify its order relating to the bonus for the year 1952 to the amount already paid by the company under the agreement dated 27-11-1954. We order the parties to bear their own costs, as learned counsel for the company has not pressed for the same.

Appeal partly allowed.

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