

SUPREME COURT OF INDIA

Workmen of M/s. Indian T. and R. Co., Ltd., Bareilly

Vs.

M/s. Indian T. and R. Co., Ltd., Bareilly

C.A.No.244 of 1959

(P. B. Gajendragadkar, K. N. Wanchoo and K. C. Das Gupta, JJ.)

06.04.1960

JUDGEMENT

DAS GUPTA, J. :

1. The dispute in this appeal is on a question of revision of wages. The Reference to the Industrial Tribunal mentioned three matters as in dispute; but neither party having appealed against the award on the other two disputes we are concerned now with only the third dispute. This dispute after an amendment by a later notification is in these words:-

"Whether the existing rates of basic wages given to unskilled, semi-skilled, skilled and highly skilled workmen employed in this concern need any revision? If so, with what details and from which date?"

2. The workmen claimed that scales and grades of different categories of workers should be fixed. The Tribunal was however of opinion that the reference as made did not authorise it to fix any scales or grades of wages but that it related only to increase over the existing minimum wages. After considering the rival contentions as regards the minimum rates which should be fixed, it fixed daily rates for unskilled workers at 12 annas per head; and for semi-skilled workers at one rupee per head; for skilled workers it thought no revision was called for as regards their minimum daily rate. For monthly workers it fixed the minimum wage for unskilled workers at Rs. 25/-, for semi-skilled workers at Rs. 40/- and for skilled workers at Rs. 60/-. On a consideration of the evidence and on a result of personal inspection it came to the conclusion that there was no highly skilled worker employed in the concern. Accordingly it fixed no minimum wages for highly skilled workers. The workmen have appealed.

3. Five main contentions are raised before us in appeal. The first is that the Tribunal was wrong in thinking that the reference as made did not authorise it to fix time scales of wages. It is urged that under the reference as made it had fully authority to fix time scales wages for the different categories and that it should have done so. The second contention is that though the Tribunal rightly thought that the Wimco and Katha factories are comparable to the respondent concern, the Indian Turpentine and Rosin Co., Ltd., it had erred in thinking that this concern's position is slightly inferior to those factories and that this error coloured the fixation of the minimum rates. Thirdly it was contended that the minimum rates as fixed for certain workmen in the semi-skilled and skilled categories are lower than what they had admittedly been getting on the date of the reference. Fourthly it was contended that the Tribunal was wrong in thinking that there were no highly skilled

workmen. Lastly it was contended that the new rates should have been made effective not from December 1, 1957, as ordered by the Tribunal but from an earlier date.

4. The question whether "rates of wages" includes the concept of scales of wages or not fell to be considered by this Court in *Express Newspapers Ltd. v. Union of India*, 1959 SCR 12: (AIR 1958 SC 578). Answering the question in the affirmative it observed at p. 88 of the Report (of SCR): (at p. 603 of AIR):

" 'Rates of wages' therefore mean the manner, mode or standard of the payments of remuneration for work done whether at the start or in the subsequent stages. Rates of wages would thus include the scales of wages and there is no antithesis between the two expressions, the expression being applicable both to the initial as well as subsequent amounts of wages. It is true that in references made to Industrial Tribunals fixing of scales of pay has been specifically mentioned, e. g., in the industrial dispute between certain banking companies and their workers. But that is not sufficient to exclude the "scales of wages" from being comprised within the larger connotation of the expression "rates of wages" which is capable to including the scales of wages also within its ambit. Even without the specific mention of the scales of wages it would be open to fix the same in an enquiry directed towards the fixation of the rates of wages."

5. In view of this authority Mr. Aggarwal, who appeared before us on behalf of the respondent, could not and did not argue that the words "rates of wages" were not wide enough to include time scales of wages. He argued however that though ordinarily fixing "rates of wages" may include the fixing of time scales it will not be proper to read the reference made in the present case as covering a question of time scales of wages. The words which have already been set out are: "Whether the existing rates of basic wages given to unskilled, semi-skilled, skilled and highly skilled workmen employed in the concern need any revision? If so, with what details and from which date ?" Mr. Aggarwal concentrates on the words "existing rates" and argues that in this collocation of words used, the dispute as regards the rates of wages must be held to be limited to the question whether there should be any increase in the present rates or not, for, he points out, the existing rates of wages are not time scale rates. If the existing rates were time scale rates the revision of rates of wages would necessitate the introduction of new time scales. Where, however, as in the present case, the existing rates are not time scales wages, revision means only the increase of these minimum rates which are not on time scale.

6. In our opinion, there is no substance in this argument. If the dispute was only on the question whether the present rates should be increased it would not have been necessary to use the word "revision" and it will be more proper to say whether the existing rates need to be raised. There were the existing rates of basic wages. Assuming they were not time scale wages there is no reason to think that the dispute could only be whether these present rates of wages should be raised. The dispute could very well be whether the existing rates should be substituted by time scale rates. The word "revision" used in the reference aptly includes this question. Whether in the peculiar facts and circumstances of the case, a time scale should be introduced or not is for the Tribunal to decide; but there is no warrant for saying that the words used in the reference....."whether the existing rates of basic wages.....need any revision" Do not authorise the Tribunal to consider the question at all.

7. Besides, it is conceded that under the present system of wages workmen in the same categories drawn different wages and that this disparity is due partly to their respective lengths of service. It is true that the increments in wages due to the length of service is at present at the sweet will and

pleasure of the respondent; but even to there is a scale of wages with increments in operation at present. Its revision would mean putting the said wage scale on a rational basis, and that is what the appellants demand. In our opinion, such a demand is clearly included in the terms of reference.

8. We have therefore come to the conclusion that the Tribunal has erred in thinking that the reference as made did not authorise it to introduce time scales of wages. It is necessary therefore to remand the matter to the Tribunal below for re-consideration of the question on the basis that it is open to it to fix time scales of wages if it thinks fit and proper.

9. In view of this decision on the first contention raised we think it unnecessary and indeed undesirable to consider the other contentions that have been raised before us. In fixing time scales of wages if it so thinks fit the Tribunal will undoubtedly have to fix a minimum as the starting rate for each time scale. The question of this starting rate will have to be considered and decided as part of the bigger question as to what the time scale should be—the minimum, the maximum, as also the rate of increment. In deciding these questions the Tribunal will undoubtedly take into account all relevant considerations including, inter alia, the financial capacity of the respondent concern, as well as the rates paid by any comparable concerns in the same region. We express no opinion one way or the other on the other contentions raised before us including the contention that the Tribunal erred in thinking that the respondent concern was slightly inferior in financial prosperity than the other two concerns, viz., Wimco and Katha factories with which it thought this concern comparable. All these questions should be considered by the Tribunal afresh.

10. Both the parties prayed that they might be allowed to adduce fresh evidence before the Tribunal. We see no objection to this. Both the employer and the workmen should be allowed proper opportunity to adduce evidence and the Tribunal should decide the matter in accordance with law and in the light of our decision that it is open to it to fix time scales of wages, after considering the evidence already on the record as also the evidence that may be adduced hereafter.

11. We therefore allow the appeal, set aside the award made by the Tribunal below on the third matter in dispute, viz., as regards the revision of wages, and remand this case for disposal by the Tribunal in accordance with law. In the circumstances of the case, there will be no order as to costs.

Appeal allowed.

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