SUPREME COURT OF INDIA

Management of Birla Cotton, Spinning and Weaving Mills Ltd., Delhi

Vs.

Workmen

C.A.No.299 of 1959

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

08.04.1960

JUDGEMENT

WANCHOO, J.:

This is an appeal by special leave in an industrial matter. There was a dispute between the appellant and its workmen which was referred to the Industrial Tribunal, Delhi. Five items were specified in the reference of which only two not survive in the appeal. They are as follows :-

1. Whether the wages in all time-rated as well as piece-rated occupations need upward revision to bring them to the level of the Bombay Standardization Scheme of wages, and whether the resultant increase may be given any retrospective effect, and if so from what date ?

2. Whether the following workmen in the sizing department should be given the full wage for the Front-sizers for the days they worked as regular Front sizers in the past ;

(i) Sri Durga Prasad,

(ii) Sri Chuni Lal,

(iii) Sri Brij Lal.

2. We may briefly give the history of the disputes between the appellant and its workmen in order that the present dispute may be put in the right perspective. It appears that there were two awards in Bombay relating to fixation of standardized wages. The first award was made in 1947 which will hereinafter be referred to as Bombay Award No. 1. It dealt will all categories of workmen in the textile mills except engineering and mechanical workmen. The second award was given later in July 1951 and related to engineering and mechanical branches, hereinafter called Bombay Award No. 2. The first dispute between the appellant and its workmen was referred to Sri S. S. Dulat, I. C. S., Industrial Tribunal, Delhi and he made an award on May 26, 1951. Reference in Sri Dulat's award was made to the Bombay Award No. 1, as that was the only award available till then and Sri Daulat was of opinion that there was no justification for delaying standardization. He was also of opinion that the conditions prevailing in the appellant-company were not exactly the same as those in the Bombay Mills and therefore it was necessary that a local enquiry should be made to arrive at a satisfactory result. It was however agreed before him that the scheme of standardization should be worked out on the basis of the minimum basic wage of Rs. 30/- per mensem. He therefore directed

the appellant-company to adopt a scheme of standardization of wages and revise the wages of all categories of workmen in accordance with that scheme, taking the Bombay scheme as a working model. This was to be worked out in consultation with the representatives of the workmen and in case any dispute regarding fixating of categories or wages could not be resolved by mutual discussion such a dispute might be brought before the tribunal in the form of a reference.

3. In consequence there was an agreement between the appellant and its workmen on September 29, 1951, by which a standardization scheme on the model of the Bombay Award No. 1 was introduced with necessary modifications. The case of the appellant was that the modifications resulted in the reduction of about 5 per cent as compared to the Bombay Award No. 1 while the case of the workmen was that it resulted in a much larger reduction in the neighbourholld of about 20 per cent. However, that may be, the wages were fixed in accordance with the agreed scheme of standardization in the appellant-company thereafter.

4. In 1953 another dispute arose between the appellant and its workmen which was referred to the adjudication of Sri Ghanshyamdas, Additional Industrial Tribunal,. Delhi. It contained five terms of reference. Four of these related to specified matters concerning other departments of the mill besides the engineering department. The fifth related to the engineering department and the tribunal was asked to decide whether the wages of the workmen employed in the engineering department need be revised and if so, on what lines and to what extent. In this connection the workmen of the engineering department contended that the Bombay Award No. 2 was not taken into account when the agreement was made in September 1951 and their main contention was that the wages in the engineering department should be revised in accordance with the Bombay Award No. 2. The contention of the appellant was that that award had also been taken into account and that there was no case for any further revision. The tribunal came to the conclusion that thought the Bombay Award No. 2 was given in July 1951, it did not appear to have been taken into account when the agreement of September 1951 was made and there was a case for revision in accordance with that award. It then went into the question as to how far that award would have to be modified considering the conditions prevailing in Delhi, particularly with reference to price level and came to the conclusion that the ratio between Bombay prices and Delhi prices should be fixed at 8 : 7. It therefore decided to deduct from the Bombay differentials in the ratio of 1 ; 8 to make the differentials in two places equal and gave an award accordingly, so far as the workmen in the engineering department were concerned. It also dealt with the other four specified matters referred to it.

5. Then we come to the present dispute which led to the reference already mentioned above. The main dispute was with respect to the application of the Bombay standardization of wages scheme included in both the Bombay Awards in full to the appellant company. There were four other specific matters in the present reference of which only one now survives as indicated above.

6. The tribunal had held on the main dispute that the Bombay Award No. 1 should be implemented in full in the appellant-company in all departments except the engineering department. It was of opinion that there was no reason to think that Delhi prices were in any way lower than Bombay prices and it therefore did not accept the proportion which had been accepted by Sri Ghanshyamdas in the matter of prices. It was further of opinion that where the wages in the appellant-company were higher than in the Bombay Award No. 1, the present wages in the appellant-company should prevail. As for the engineering department, it held that as the award of Sri Ghanshyamdas had not been terminated as required by S. 19(6) of the Industrial Disputes Act. No. 14 of 1947, (hereinafter called the Act), that award must continue so far as the categories covered by it were concerned. It

may be mentioned that Sri Ghanshyamdas award had been taken in appeal to the Labour Appellate Tribunal and the present tribunal held that the award of Sri Ghanshyamdas as well as of the Labour Appellate Tribunal would prevail so far as the categories covered by them were concerned. Certain other categories were excepted from the present award because there was separate references pending with respect to them. Barring therefore these categories which were excepted on account either of the award of Sri Ghanshyamdas or of the Labour Appellate Tribunal or because there were specific references pending with respect to them, the present award applied to all other categories in the appellant-company. The tribunal also directed that in view of the fact that certain designations existing in the appellant-company were not found in the Bombay Award No. 1, the matter would be gone into by a joint committee consisting of the representatives of the management and the union which would investigate the anomalies arising from the application of the Bombay Award No. 1 to the appellant-company. In case of disagreement, the matter might be referred to the Industrial Tribunal, Delhi either through a regular reference made with mutual consent, or to an arbitrator mutually agreed upon, and the workmen would be bound by the decision so obtained. Finally the tribunal refused to give retrospective effect to the scheme introduced by it from the date of reference and ordered that the revised scheme should come into force only from the date when its award became enforceable.

7. As to the cases of Durga Prasad, Chuni Lal and Brij Lal, it ordered that these three individuals should be paid the wages of front-sizers for the days on which they worked as such.

8. Before we deal with the main dispute in the case relating to standardization we may shortly dispose of the Matter relating to the three workmen, namely, Chuni Lal, Durga Prasad and Brij Lal. The parties have agreed before us without prejudice to the contentions raised by the appellant-company in this behalf that the cases of Brij Lal who has left service and Durga Prasad who has become permanent should be dropped while Chuni Lal should get the benefit of the award from the date of reference. We therefore, order accordingly and the award will be modified accordingly.

9. Turning now to the main issue relating to standardization, the contentions of the appellant are four-fold. In the first place it is urged that as the award of Sri Ghanshyamdas has not been terminated it bars the consideration of the demands of the workmen relating to departments other than engineering also and that the tribunal was wrong in holding that revision with respect to departments other than engineering was not barred. Secondly, it is urged that the tribunal has acted against the basic principle of standardization when it ordered that those workmen who were getting more wages than those provided in the Bombay Award No. 1 should continue to get the higher wages in spite of the standardization ordered by it in accordance with the Bombay Award No. 1. In the third place, it is contended that the tribunal was patently wrong in rejecting the conclusion of Sri Ghanshyamdas that the proportion of Bombay prices to Delhi prices was 8 : 7. Finally, it is contended that the direction of the tribunal that a joint committee consisting of the representatives of the management and the union should investigate certain matters and in case of disagreement reference may be made either to the tribunal by mutual consent or to an arbitrator, leaves scope for a good deal of dispute between the appellant and its workmen and that in order to avoid future trouble the tribunal should have decided these matters also itself.

10. The argument that the tribunal was wrong in holding that the award of Sri Ghanshyamdas did not stand in the way of revision with respect to departments other than engineering is based on S. 19(6) of the Act.

That provision lays down that notwithstanding the expiry of the period of operation under sub-sec.

(3) of S. 19, the award shall continue to be binding on the parties till the period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award. Admittedly the awards of Sri Ghanshyamdas and the Labour Appellate Tribunal in appeal have not been terminated and that was the basis of the finding of the tribunal that so far as the workmen of engineering department were concerned there could be no revision of the wages fixed by those awards. The Appellant contends that those awards are also a bar for the same reason to the revisions of wages in other departments. It is clear however that there was no reference to Sri Ghanshyamdas about implementation of the Bombay Award No. 1, or of the general revision of wages so far as departments other than engineering were concerned. The only reference was with respect to four specific matters and so far as the decision on those four specific matters is concerned it may be binding still as that award has been terminated. But the argument on behalf of the appellant is this. It is said that the Dulat award held that there was no justification for delaying standardisation and ordered the parties to work out a scheme taking the Bombay Award No. 1 as the working model. In pursuance of that, a scheme was worked out and the parties, agreed to it on September 29, 1951. Further the Dulat award had directed that in case there was any dispute about fixation of wages or categories which the parties could not resolve by mutual discussion it may be brought before the tribunal in the form of a reference. Therefore, it is urged that when the agreed scheme was evolved on September 29, 1951, it became in a sense a part of the Dulat award. In any case it is urged that even if it did not become a part of the Dulat award it must be taken to have become a part of the Ghanshyamdas award by implication because only four matters were referred at the instance of the workmen to that tribunal out of the matters settled by the agreement of 1951. The argument is certainly ingenious but has no substance in it. It is not contended on behalf of the appellant that the agreement of 1951 amounted to a settlement within the meaning of S. 2(p) of the Act as it stood in 1951; therefore S. 19(2) will not apply to this agreement. Nor can it be accepted that this agreement was a part of the Dulat award, though it may have been arrived at in pursuance of the observations made of Sri Dulat in his award. If the intention of the parties was to make this agreement a part of the Dulat award the parties should have asked Sri Dulat to hold over his award with respect to this matter and then brought the agreement before him and asked him to make it a part of his award. As that was not done, this agreement cannot by any process of reasoning be taken to be a part of the Dulat award. Nor do we see how the whole of this agreement can become part of the Ghanshyamdas award. It is true that four specific matters were raised with reference to departments other than engineering before Sri Ghanshyamdas. There was, however, no reference before him generally for revision of wages of other department; nor was he asked to consider the Bombay Award No. 1 with reference to other departments. It is true that in considering the specific matters before him he referred to the agreement and decided the specific matters in the context of that agreement; but that would not make the whole of this agreement by implication a part of this award. Therefore the fact that Ghanshyamdas award has not been terminated will be no bar to the revision of wages in other departments besides the engineering department. The tribunal was, therefore, right in holding that consideration of the revision of the 1951 agreement was not barred because the Ghanshyamdas award had not been terminated. The contention of the appellant on this point must fail.

11. Turning now to the second point raised on behalf of the appellant, it cannot be disputed that when a standardisation scheme comes into force it is an integrated whole and may sometime result in some categories of workmen getting less than what they were getting before. The whole purpose of a standardization scheme is to standardize wages and where they are low to raise them to the standardized level. Similarly where the wages are high they have to be reduced in order to fit them in the standardized scheme. The tribunal therefore was clearly wrong in acting against the basic

principle of standardized scheme when it ordered that the wages should be increased according to the standardized scheme where they were low but should not be decreased where they were high. This principle of standardization is clear and even the learned counsel for the workmen had to admit it. That part of the award therefore which lays down that in spite of standardization in accordance with the Bombay

Award No. 1, the wages of those categories of workmen who are getting higher wages than in the Bombay Award No. 1 should remain at the same level is patently wrong and must be set aside.

12. The next contention on behalf of the appellant is that the tribunal went wrong in departing from what Sri Ghanshyamdas had laid down as to the proportion relating to the price levels of Bombay and Delhi. A perusal of the award of the tribunal shows that it has dealt with this question in a perfunctory manner. The considered finding of Sri Ghanshyamdas has been given the go-by practically on the oral evidence of one witness. That in out opinion was a highly unsatisfactory method of dealing with this complicated question. We express no opinion as to whether Sri Ghanshyamdas was right in the proportion he had fixed in July 1955 or whether the present tribunal is right in saying that there is no difference between the Bombay price and Delhi price now. This is a matter which has to be seriously investigated and we must say that the approach of the present tribunal to the question has been far from serious and as already indicated it has arrived at that decision practically on the oral evidence of one witness. We are told by learned counsel for the workmen that there was other evidence before the tribunal to justify its conclusion. If that is so, it is clear that the award has not considered it. On the other hand, we are told by the learned counsel for the appellant that the evidence on the other side showed clearly that the proportion worked out by Sri Ghanshyamdas still holds good. If that is so, the award does not properly consider that evidence either. In the circumstances, the conclusion of the tribunal to the effect that there is no difference in price level between Bombay and Delhi cannot be accepted and the award given on this basis must be set aside.

13. Coming to the last point raised on behalf of the appellant, namely, that the tribunal has left a part of the dispute to be resolved by the parties themselves, it does seem that the direction of the tribunal with respect to a joint committee going into and investigating anomalies in categories to be found in the appellant-company and not to be found in the Bombay Award No. 1 has left a part of the area of dispute referred to it unresolved. Taking all these matters into consideration the parties agreed before us that the case should be sent back to the tribunal and two assessors should be appointed to assist the tribunal in working out the standardization scheme for the appellant company in all details with the Bombay Award No. 1 as the model and that this scheme should be based on the basic principle of standardization scheme, namely, that where wages are low they should be raised and where they are high they should be lowered. It is also agreed that the question of comparison of prices between Bombay and Delhi may be gone into again properly and it should then be decided whether the prices in the two places are equal or otherwise. Thereafter the tribunal should make an award in consultation with the assessors. The appellant has nominated Sri P. D. Makharia, General Manager, Technological Institute Textiles, Bhiwani (Punjab) as its assessor. The workmen have nominated Sri Prem Sagar Gupta, Member Delhi Municipal Corporation as their assessor and failing him Sri M. L. Mittal, 2-F Kamlanagar, Delhi. As the dispute has been pending for over three years and a half, the tribunal will see that the award is now given within three months or as early as possible thereafter.

14. We therefore allow the appeal, set aside the award with respect to standardization and order the tribunal to proceed in the manner indicated above. As to Chuni Lal, Brij Lal and Durga Prasad, the

order of the tribunal is modified as indicated already. In the circumstances, we order the parties to bear their own costs.

Appeal allowed.

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