Ramnagar Cane and Sugar Co. Ltd.

Vs

Jatin Chakravorty and Others

Criminal Appeal No. 96 of 1959

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

05.05.1960

JUDGMENT

GAJENDRAGADKAR, J. –

This appeal by special leave raises a short question about the construction and effect of the provisions of s. 22(1)(d) of the Industrial Disputes Act, 14 of 1947, (hereinafter called the Act). The appellant, Ramnagar Cane & Sugar Co. Ltd., Calcutta, is a company incorporated under the Indian Companies Act and carries on the business of manufacturing sugar which is an essential commodity in its factory at Plassey in the District of Nadia. The appellant was declared a public utility concern or service by a notification duly issued in that behalf on October 8, 1953. The appellant employs in its business about 545 permanent men and 703 seasonal men excluding casual labourers. A majority of the workmen employed by the appellant belong to the Ramnagar Cane & Sugar Co. Employees' Union (hereinafter called the Employees' Union), whereas a minority of workmen belong to the rival Union called Ramnagar Sugar Mill Workers' Union (hereinafter called the Workers' Union). It appears that on December 9, 1953, the Workers' Union presented a charter of demands to the appellant. This was followed by a similar charter of demands by the Employees' Union on January 20, 1954. On the same day the Workers' Union served a notice of strike on the appellant. On February 1, 1954, a meeting was held before the Conciliation Officer which was attended by the Employees' Union and the appellant. A notice of the said meeting had been served on the Workers' Union as well. On February 2, 1954, the appellant suggested to the conciliation officer that it should discuss the matter separately with the representatives of the two Unions but to this suggestion the Workers' Union took an objection. Thereupon the said Union informed the conciliation officer that it assumed that the conciliation had failed. Consequently on February 3, 1954, the conciliation officer sent his report under s. 12, sub-s. (4) of the Act about the failure of conciliation with the Workers' Union only. On February 25, 1954, the appellant and the Employees' Union arrived at a settlement, and it was recorded in the form of a memo of settlement which was duly signed by both the parties. Meanwhile, on February 13, 1954, the Workers' Union commenced a strike. As a result of this strike a criminal complaint was filed against the eleven respondents under s. 11 of the West Bengal Security Act, XIX of 1950, and a charge was subsequently framed against them.

The case as formulated in the charge against the said respondents was that on or about February 13, 1954, at Plassey each one of them did commit subversive acts which were intended or likely to impede, delay or restrict the work of Ramnagar Cane & Sugar Co. Ltd., which was a public utility concern for production of sugar, an essential commodity. The respondents pleaded not guilty to the charge substantially on the ground that the strike in question was not illegal. It was not denied that they had gone on strike on February 13, 1954; it was, however, urged that since the strike was lawful the offence charged could not be said to be proved. The learned magistrate upheld the

respondents' plea and acquitted the respondents. The appellant challenged the correctness of the said order of acquittal by preferring a revisional application before the Calcutta High Court. Its revisional application, however, failed since the High Court held that the strike was not illegal and agreed with the conclusion of the trial magistrate. The appellant then applied for a certificate before the said High Court but its application was dismissed. Then the appellant applied for and obtained special leave from this Court; and the only point which is raised on its behalf before us is that in coming to the conclusion that the strike in question was not illegal the Courts below have misconstrued the provisions of s. 22(1)(d) of the Act.

Before we consider this point it is relevant to refer to the relevant provisions of the West Bengal Security Act. Section 11 of this Act provides that if any person commits any subversive act he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both. Section 2(9)(e) defines a subversive act as meaning any act which is intended or is likely to impede, delay or restrict - (i) any work or operation, or (ii) any means of transport or locomotion, - necessary for the production, procurement, supply or distribution of any essential commodity, except in furtherance of an industrial dispute as defined in the Industrial Disputes Act, 1947. Explanation (ii) to this definition provides that an illegal strike or an illegal lock-out as defined in s. 24 of the Industrial Disputes Act, 1947, shall not be deemed to be an act in furtherance of an industrial dispute for the purposes of sub-cl. (e). It is thus clear that if the impugned strike is held to be illegal it would constitute a subversive act as defined by s. 2(9)(e) of the West Bengal Security Act. This position has been accepted in the courts below. That is why the only question which arises for our decision is whether the strike in question is an illegal strike under s. 24 of the Act.

Section 24 of the Act provides, inter alia, that a strike shall be illegal if it is commenced or declared in contravention of s. 22 or s. 23. That takes us to the provisions of s. 22, and we have to find out whether in commencing the strike on February 13, 1954, the respondents had contravened the provisions of s. 22(1)(d) of the Act. Section 22(1)(d) lays down that no person employed in a public utility service shall go on strike in breach of contract during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings. The effect of this provision is clear. If a strike is declared in a public utility service during the pendency of a conciliation proceeding it is illegal. Was any conciliation proceeding pending between the appellant and the respondents at the relevant time ? That is the question which calls for an answer in the present appeal. The respondents contend that the Workers' Union to which they belonged had left the conciliation proceedings on February 2, 1954, and that in fact the conciliation officer had submitted his failure report to that effect on February 3, 1954; and so, between the Workers' Union and the appellant no conciliation proceeding was pending after February 5, 1954, in any case when the Government received the failure report of the conciliation officer. On the other hand, the appellant contends that conciliation proceedings with the Employees' Union continued until February 25, 1954, and in fact settlement was arrived at between the parties on that date and duly signed by them. The appellant's argument is that the pendency of the conciliation proceedings between the appellant and the Employees' Union makes illegal the strike in which the respondents joined on February 13, 1954. The High Court has held that since it is not shown that the respondents belong to the Employees' Union it would not be possible to hold that any conciliation proceeding was pending between them and the appellant. It is the correctness of this view that is challenged before us.

In appreciating the merits of the rival contentions thus raised in this appeal it is necessary to bear in mind the scheme of the Act. It is now well settled that an industrial dispute can be raised in regard to any matter only when it is sponsored by a body of workmen acting through a union or otherwise.

When an industrial dispute is thus raised and is decided either by settlement or by an award the scope and effect of its operation is prescribed by s. 18 of the Act. Section 18(1) provides that a settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement; whereas s. 18(3) provides that a settlement arrived at in the course of conciliation proceedings which has become enforceable shall be binding on all the parties specified in cls. (a), (b), (c) and (d) of sub-s. (3) Section 18(3)(d) makes it clear that, where a party referred to in cl. (a) or (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part, would be bound by the settlement. In other words, there can be no doubt that the settlement arrived at between the appellant and the Employees' Union during the course of conciliation proceedings on February 25, 1954, would bind not only the members of the said union but all workmen employed in the establishment of the appellant at that date. That inevitably means that the respondents would be bound by the said settlement even though they may belong to the rival Union. In order to bind the workmen it is not necessary to show that the said workmen belong to the Union which was a party to the dispute before the conciliator. The whole policy of s. 18 appears to be to give an extended operation to the settlement arrived at in the course of conciliation proceedings, and that is the object with which the four categories of persons bound by such settlement are specified in s. 18, sub-s. (3). In this connection we may refer to two recent decisions of this Court where similar questions under s. 19(6) and s. 33(1)(a) of the Act have been considered. (Vide : The Associated Cement Companies Ltd., Porbandar v. Their Workmen ((1960) 2 S.C.R. 974) and Messrs. New India Motors (P.) Ltd. v. K. T. Morris ((1960) 3 S.C.R. 350)).

This position has an important bearing on the construction of s. 22(1)(d). When the said provision refers to the pendency of any conciliation proceedings it must reasonably be construed to mean any conciliation proceedings which may lead to a settlement before the conciliation officer and which settlement may bind all the workmen concerned; in other words, if a conciliation proceeding is pending between one union and the employer and it relates to matters concerning all the employees of the employer, the pendency of the said conciliation proceeding would be a bar against all the employees of the employer employed in a public utility service to go on a strike during the pendency of the said proceeding under s. 22(1)(d). In our opinion, this construction would be consistent with the specific provisions as to the effect of conciliation settlements prescribed by s. 18(3)(d) and is harmonious with the general policy of the Act; otherwise, it would unnecessarily disturb industrial peace, if one union employed in a public utility service is allowed to go on strike even though demands common to the members of the said union as well as the rest of the workmen are being considered in conciliation proceedings between the said employer and his other employees represented by another union. It would be another matter if the conciliation proceedings in question are confined to specific demands limited to a specified class of employees. In such a case it may be contended that the other workmen who are not interested in the said demands may not be bound by the said proceedings. That, however, is another aspect of the matter with which we are not concerned in the present appeal. We have seen the charter of demands submitted by both the Unions to the appellant, and it is clear that the said demands cover all employees of the appellant and not only one section of them; in other words, both the charters have made demands the benefit of which was intended to accrue to all the workmen of the appellant; they are not demands by one section of the workmen belonging to one separate part of the establishment run by the appellant. The demands made are no doubt by two Unions but they cover the same ground and in effect they represent the demands made by the whole body of workmen. In fact the conciliation settlement reached between

the appellant and the Employees' Union has benefited the members of the Workers' Union as much as those of the Employees' Union. That being so we think the courts below were in error in putting an unduly narrow and restricted construction on the provisions of s. 22(1)(d) of the Act. In our opinion, the pendency of the conciliation proceedings between the appellant and the Employees' Union attracts the provisions of s. 22(1)(d) to the strike in question and makes the said strike illegal under s. 24(1)(i) of the Act. If the strike is illegal it follows that the respondents have taken part in a subversive activity as defined by s. 2(9)(e) of the West Bengal Security Act and as such have committed an offence punishable under s. 11 of the said Act.

We would accordingly set aside the order of acquittal passed by the High Court in favour of the respondents and convict them of the offence charged. The Solicitor-General has fairly told us that the appellant has come to this Court not so much for the purpose of pressing for the conviction of, and a heavy sentence against, the respondents but for obtaining a decision on the important question of law in regard to the construction of s. 22(1)(d) of the Act. Under the circumstances of this case we think the ends of justice would be met if we convict the respondents of the offence charged and direct that each one of them should pay a fine of rupee one.

Appeal allowed.

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