

Nityananda, M. Joshi and Others

Vs

Life Insurance Corporation of India and Others

Civil Appeals Nos. 301-309 and 1105 of 1969

(S. M. Sikri, R. S. Bachawat, V. Ramswami JJ)

25.04.1969

JUDGMENT

SIKRI, J. -

1. These appeals by special leave are directed against the order of the Central Government Labour Court, Bombay, holding that the applications filed by the appellants against the Life Insurance Corporation of India under Section 33-C(2) of the Industrial Disputes Act, 1947, were barred under Article 137 of the Limitation Act, 1963, in so far as the claim was for period beyond three years. In holding this the Labour Court followed the decision of the Full Bench of the Bombay High Court in *The Manager, Messrs. P. K. Porwal v. The Labour Court* (70 BLR 104). The Bombay High Court held that applications filed under Section 33-C(2) of the Industrial Disputes Act prior to its amendment by Central Act (XXXVI of 1964) were governed by the period of limitation laid down in Article 137 of the Limitation Act 1963, and this article applied to applications under laws other than those contained in the Civil Procedure Code, 1908.

2. This court in *Town Municipal Council, Athani v. The Presiding Officer, Labour Court, Hubli* (Civil Appeals Nos. 170 to 173 of 1968; judgment delivered on March 30, 1969) has dissented from the decision of the Bombay High Court and has held that Article 137 of the Limitation Act, 1963, does not apply to applications under Section 33-C(2) of the Industrial Disputes Act. This Court gave two reasons for coming to this conclusion. The first ground was that in spite of the changes made in the Indian Limitation Act, 1963, no drastic change was intended in the scope of Article 137 so as to include within it all applications irrespective of the fact whether they had any reference to the Code of Civil Procedure or not. This Court held that in spite of the changes the interpretation of Article 181 of the Limitation Act, 1908, by this Court in *Bombay Gas Co. Ltd. v. Gopal Bhiva and Others* ((1964) 3 SCR 709) would apply to Article 137 of the Limitation Act, 1963. The second ground given by this Court was that it is only applications to Courts that are intended to be covered under Article 137 of the Limitation Act, 1963.

3. In our view Article 137 only contemplates applications to Courts. In the Third Division of the Schedule to the Limitation Act, 1963 all the other applications mentioned in the various articles are applications filed in a court. Further Section 4 of the Limitation Act, 1963, provides for the contingency when the prescribed period for any application expires on a holiday and the only contingency contemplated is "when the court is closed." Again under Section 5 it is only a court which is enabled to admit an application after the prescribed period has expired if the court is satisfied that the applicant had sufficient cause for not preferring the application. It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963.

4. It is not necessary to express our views on the first ground given by this Court in *Town Municipal Council, Athani v. The presiding Officer Labour Court, Hubli*. (Civil Appeals Nos. 170 to 173 of 1968; judgment delivered on March 30, 1969). It seems to us that it may require serious consideration whether applications to courts under other provisions, apart from Civil Procedure Code, are included within Article 137 of the Limitation Act, 1963, or not.

5. The learned counsel for the respondent contends that the appeals should fail on another ground. He says that these applications were filed under Section 33-C(2) of the Industrial Disputes Act, while they should have been filed under Section 33-C(1). He further says that, at any rate, no application can be filed under Section 33-C(2) because the sub-section does not mention how the question is to be decided. There is no force in these submissions.

6. It is plain from the wording of sub-section (1) and sub-section (2) of Section 33-C that the former sub-section deals with cases where money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter V-A, while the latter sub-section deals with cases where a workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money. In the present case applications were filed by the employees against the respondent for computing in terms of money the benefit of holidays and for recovering the amount. This case falls squarely within sub-section (2) of Section 33-C. There is no award or settlement under which the benefit of holidays had already been computed.

7. It is true that sub-section (2) of Section 33-C does not indicate the mode in which the question as to the amount of money due or as to the amount at which the benefit should be computed, may be decided. But the sub-section had left it to the rule-making authority to make a suitable provision. This is indicated by the expression "subject to any rules that may be made under this Act" in sub-section (2) of Section 33-C. Rules have been made, and Rule 62(2) of the Industrial Disputes (Central) Rules, 1957, provides :

"Where any workman or a group of workmen is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money, the workman or the group of workmen, as the case may be, may apply to the specified Labour Court in Form K-3 for the determination of the amount due or, as the case may be, the amount at which such benefit should be computed."

According to this rule an application in Form K-3 can clearly be made.

8. In the result the appeals are allowed and the order of the Labour Court set aside in so far as the Labour Court held that the applications were barred by Article 137 of the Limitation Act. The Labour Court will now pass the final order in accordance with law. The appellants will be entitled to their costs, one hearing fee.

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