

The Hind Cycles Ltd., and Another

Vs

The Workmen

Civil Appeal No. 1505 of 1968

(C. A. Vaidialingam, I. D. Dua JJ)

23.02.1972

JUDGMENT

VAIDIALINGAM, J. -

1. In this appeal, by special leave Mr. G. B. Pai, learned counsel for the appellant, challenges the award, dated the 26th April, 1968, of the Industrial Tribunal, Maharashtra, Bombay, in reference (IT) No. 258 of 1964 granting interim relief to workmen according to the recommendations of the Central Wage Board for Engineering Industries. The main reference itself takes in several matters, such as fixation of wage scales, classification, dearness allowance, production bonus, gratuity, etc.
2. The Steel Mazdoor Sabha, representing the workmen filed an application for grant of interim relief on the ground that the proceedings before the Tribunal are not likely to come to an end at an early date. In fact, the application was filed, for the grant of interim relief, based on the recommendations for payment of interim relief, made by the Central Wage Board for the Engineering Industries on February 12, 1966 and accepted by the Central Government on July 23, 1966. The claim on behalf of the workmen was that they must be paid interim relief at the rate of : (a) Rs. 6 per month in respect of workmen earning wages above Rs. 150 but not more than Rs. 250 per month, and (b) Rs. 5 per month in respect of workmen earning above Rs. 250 but not more than Rs. 500 per month.
3. It is brought to our notice that in view of certain technical aspects involved in the adjudication of certain matters covered by the Reference, the Tribunal has appointed Assessors for making recommendations regarding those matters. It is further represented that the Assessors appointed, at the suggestion of the employers have submitted their report; but in respect of Production bonus, the assessors appointed at the suggestion of the workmen have yet to investigate the matter and submit their report. Quite naturally, some more time may elapse by the time the final award is passed by the Tribunal.
4. The claim of the workmen for payment of interim relief was contested by the appellants on the ground that after the Reference, under certain Settlements, they have made substantial payments which have added to the emoluments of the workmen and hence no interim relief is necessary to the workmen. They further pleaded that if amounts have to be paid on the basis of the interim relief claimed by the workmen, the company will not be able to bear the financial burden inasmuch as it has suffered a loss of over 37 lakhs rupees during the year 1967-68, and as even, according to the workmen, the additional burden that the company will have to bear on that score will be in the region of 1.92 lakhs a year.

5. The Tribunal has proceeded on the basis that the additional emoluments, claimed to have been paid by the appellants after the Reference, must be considered to be payments made for the increased production shown by the workmen. This view of the Tribunal is criticized by Mr. Pai on the ground that the nature of the payment made under the settlement has been misunderstood by the Tribunal. Counsel has also pointed out that even the category of workmen who are eligible for interim relief as claimed by the Sabha, has also been misunderstood by the Tribunal. The more serious attack against the order of the Tribunal is that it has not considered one of the very material factors, to be taken into account for such purpose, namely, the financial capacity of the appellant to bear the additional burden. Mr. Pai, no doubt attempted to show by reference to the records that the appellant will not be able to bear the financial burden. Mr. H. K. Sowani also tried to satisfy us that the appellant's financial capacity is sound.

6. We have thought it unnecessary to deal with the material on record, because such material will have to be considered by the Tribunal before a final adjudication is made by it in respect of matters referred to it. As the matter is still pending before the Tribunal, we have refrained from considering the material on record and express an opinion on them one way or other, as that will embarrass the Tribunal in its final adjudication.

7. The reference itself was made as early as 1964, but it has not been possible for the Tribunal to make the final award within a reasonable time. It also looks as if some more time may elapse before the Report of the Assessors regarding Production Bonus is available to the Tribunal. The passing of the final Award itself will take some time after the receipt of this report. Having regard to these circumstances, we have considered it necessary that the rate awarded by the Tribunal can be reduced without prejudice to the rights of the parties concerned to have their full say regarding the fixation of the wages-scales, dearness allowance, etc. at the time of the passing of the final award. Having this in view, we consider it proper that the appellant should, pay at one-third the rate directed in the order of the Tribunal and that too only for a period of two years. We are restricting the period as the Tribunal has granted interim relief with effect from April 1, 1968. As mentioned earlier, the appellants will pay at the rate indicated by us, only for a period of two years.

8. The appellants will also pay at the same rate fixed by us, from today till the passing of the final award by the Tribunal. It is needless to state that the amounts that are now paid by virtue of this order will be suitably adjusted, depending upon the final directions that may be given in the award.

9. We may also point out that it is very desirable that the Tribunal should try to expedite the proceedings at all stages and also give suitable directions to the Assessors to complete their work as early as possible.

10. Regarding the arrears that have been directed to be paid by the order for a period of two years and at the rate specified earlier, the appellants will pay half of the said arrears within six weeks from today and the balance within three months from today. The amounts that are to be paid from today till the passing of the final award will be paid on or before the 5th of every months, the first payment is to be made on or before the 5th of April, 1972.

11. We make it very clear that by reducing the rate of interim relief granted by the Tribunal, we should not be understood that we are in agreement with the view expressed by the Tribunal in the order under attack except as to quantum. We express no opinion regarding the correctness of the directions contained in the order of the Tribunal. The directions given by us regarding payment by the appellant at a particular rate and for a particular period as also for the future are purely as an

interim measure in view of the long pendency of the proceedings before the Tribunal, whatever may be the reasons for such pendency.

12. In the result, the order of the tribunal will stand modified as directed above; and the appeal is, accordingly, disposed of in terms of the directions contained in this Judgment. There will be no order as to costs.

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