

The Technological Institute of Textiles

Vs

Workmen and Others

Civil Appeal No. 864 of 1968

(D. G. palekar, C. A. Vaidialingam, K. K. Mathew JJ)

08.03.1972

JUDGMENT

VAIDIALINGAM, J. -

1. In this appeal, by special leave, the order on the preliminary issue, dated May 12, 1965 as well as the final award, dated November 25, 1967, of the Industrial Tribunal, Haryana, in Reference No. 4 of 1964 are under challenge.
2. The question that was referred by the State Government for adjudication, related to the claim of the workmen for the grant of bonus for the year 1962-63, its quantum and terms and conditions for its payment.
3. The appellant raised certain preliminary objections to the validity of the order, referring the dispute for adjudication. The Tribunal framed the following issues for consideration :

"(1) Is the reference invalid and without jurisdiction for the reasons given in Paragraph 10 of the written statement ?

(2) Whether the workers are entitled to the grant of bonus for the year 1962-63 ? If so what should be its quantum and terms and conditions for its payment ?"

Regarding the first issue, the Tribunal, after a consideration of the materials placed before it by both parties, ultimately by its order, dated May 12, 1965, rejected the preliminary objections raised on behalf of the management.

4. The claim for bonus, which formed the subject-matter of issue No. 2 and which was the main dispute referred for adjudication, was later on taken up by the Tribunal for adjudication. In the view that we take that the matter will have to go back to the Tribunal for fresh consideration, we do not think it necessary to set out the nature of the claim made by the workmen or the defence raised by the management. One of the points that has been very strenuously pressed before us, on behalf of the management, by Mr. G. B. Pai, learned counsel, is that the Tribunal adjourned the matter on various occasions from time to time to enable the respondent workmen to produce evidence. But ultimately when some evidence was produced on behalf of the respondent, after a long time and the Union's case was closed, an opportunity asked for by the management to adduce evidence, in support of its defence was sternly refused and the Tribunal proceeded to give its award, November 25, 1967. That is, according to Mr. Pai, the appellant had no opportunity to adduce any evidence and an award had been passed against it on mere conjecture and guess.

5. In this connection, Mr. Pai referred us to the various orders passed by the Tribunal on different dates adjourning the proceedings from time to time at the request of the workmen. The adjournments so granted cover a period of nearly two years.

6. We are constrained to remark that this criticism is well founded and the Tribunal has been doing nothing but merely adjourning the matter for over two years at the request of the respondents. Ultimately, on July 20, 1967, the Tribunal, when a request on behalf of the appellant was made for leave to adduce evidence, rejected that request and closed the case of the management suo motu. It has thus shut out evidence that the appellant was entitled in law to place before the Tribunal. It may be pertinent to note that even the workmen wanted to examine the Accountant of the appellant and the Accountant did appear as a witness, the statements produced by him were found to be not complete and satisfactory. In fact, it was represented on behalf of the appellant that it will furnish the necessary statements in that regard to enable that witness to give proper evidence before the Tribunal. There is no controversy that the appellant did keep up the undertaking given before the Tribunal by making available the statements the very next day. In spite of the helpful attitude adopted by the management, it is rather regrettable that the Tribunal should have closed the proceedings very abruptly on July 20, 1967 without permitting the appellant to produce evidence on its behalf. To say the least, this attitude of the Tribunal is highly arbitrary and unjust.

7. If the above appeal could be disposed of on the materials on record without remanding the same, we would have ourselves gone into the matter. But unfortunately in respect of the many claims made on behalf of the appellant, details and particulars will have to be furnished in respect of which not only documentary evidence but also oral evidence may be necessary.

8. In this state of affairs, we are left with no other alternative but to set aside the award of the Tribunal, dated November 25, 1967 and remand the proceeding to the Tribunal for adjudication of the only question that was referred to it, namely, the claim for bonus for year 1962-63. As the finding recorded on May 12, 1965 overruling the preliminary objections raised by the management is not attacked before us by Mr. Pai, the finding on issue No. 1 will stand and that issue no longer survives for consideration. Therefore, as we have pointed out earlier, the tribunal will take up issue No. 2 alone, and after giving full opportunity to both the parties to place the necessary materials, oral and documentary in support of their respective stand, regard the said issue, deal with the matter afresh and pass an award in accordance with law.

6. As the reference was made as early as 1964, and as the claim for bonus for 1962-63 has been pending for a considerably long time, the Tribunal will pass its award, within a period not exceeding four months from today. The record will be sent to the Tribunal at once. The appeal is disposed of as directed above. There will be no order as to costs.

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