Raza Buland Sugar Co. Ltd.

Vs

Their Workmen

Civil Appeal No. 917 of 1968

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

16.03.1972

JUDGMENT

VAIDIALINGAM, J. -

1. This appeal, by special leave, is directed against the Award, dated August 7, 1967, in adjudication case No. 47 of 1966 of the Industrial Tribunal (II) Lucknow, holding that the action of the appellant in withdrawing the scheme of payment of premium to their workmen is illegal and unjustified except in respect of certain classes of workmen.

2. There were two public limited companies, Raza Sugar Company Ltd., and Buland Sugar Company Ltd. having their registered office at Rampur. Each Company had one sugar factory at Rampur in close proximity. These companies and factories were under the common management of M/s. Govan Bros (Rampur) Private Ltd. In 1957 these two companies were amalgamated and a new company named Raza Buland Sugar Company Ltd. was formed. In spite of the said amalgamation the two factories functioned separately. In 1964-65 the Buland Sugar Factory was dismantled and removed to the premises of Raza Sugar Factory and thus both the factories became integrated. The original daily crushing capacity of Raza Sugar Factory and Buland Sugar Factory was about 1136 and 1193 M. Tons respectively. The total crushing capacity originally of the two factories was 2323 M. Tons. After the integration of both the factories into one unit, the daily crushing capacity was increased to 3000 M. Tons. The integrated unit worked for the first time in the crushing season of 1965-66. At this stage it may be mentioned that two factories had from about 1946 an incentive scheme known as "premium", details of which had been given at page 353 in Appendix 69 of the Report of the Central Wage Board of Sugar Industry. There is no controversy that the companies were paying the premium to all its workmen according to this scheme from 1946 to 1965.

3. By notice, dated November 16/17, 1965, the appellant withdrew the Incentive Scheme, in consequence of which an industrial dispute arose between the appellant and its workmen. The State of Uttar Pradesh by its order, dated November, 10, 1966, referred for adjudication to the concerned Industrial Tribunal the question :

> "Whether the action of employers in withdrawing the scheme for payment of premium to their workmen, by their Notice No. RB/FD/J-42, dated November 16/17, 1965, (Annexure) is legal and/or justifiable ? If not, to what relief are the workmen entitled ?"

4. The workmen pleaded that the practice of paying premium a cording to the incentive scheme from 1946 to 1965 has become a part of their conditions of service and its withdrawal by the

appellant was unwarranted, unjustified and illegal. They also pleaded that the premium was being paid as an incentive to higher production and as the workmen have shown higher production even after the integration of the two factories into one unit. They are entitled to payment according to the scheme. In the alternative, they also pleaded that the Tribunal can make such suitable modifications that may be found necessary in the scheme in view of the amalgamation of the two factories into one composite unit. The appellant, on the other hand, pleaded that it has incurred very heavy losses in the year ending October 31, 1966 and as the incentive scheme was found unprofitable, it was justified in withdrawing the said scheme. It was also contended that the Central Wage Board for Sugar Industry had standardized wages for all employees of sugar factories and the appellant has also fully implemented the said recommendations as directed by the Government Order, dated April 27, 1961. As higher wages were being paid to the workmen in accordance with the said Government Order, there is no further necessity for an incentive scheme in sugar industry. It is to be noted that the appellant itself pointed out before the Tribunal that the existing scheme was found to be unscientific and that it was prepared to negotiate with the Union for the framing of a scheme on reasonable and scientific basis having due regard to the enhanced wages fixed by the Wage Board and also taking into account the production capacity of the additional machinery installed after the amalgamation of the two factories.

5. The Tribunal by its Award rejected the plea of the appellant that in view of the wages paid according to the recommendations of the Wage Board no incentive scheme is necessary. It is the view of the Tribunal that the Wage Board has not recommended payment of any particular kind of incentive in sugar industry. The standardization by the Wage Board has, according to the Tribunal, nothing to do with the payment of premium as incentive for higher production. Accordingly, the Tribunal effected certain modification in the scheme as it was originally in force.

6. The workmen have not appeared before us in this appeal. But Mr. B. P. Maheshwari, learned counsel for the appellant, has quite fairly placed before us all aspects of the matter; the same contentions that were raised before the Tribunal have also been reiterated before us.

7. After a consideration of the original incentive scheme that was admittedly in fores in the two factories and the reasons given by the Tribunal for making some slight modifications, we are satisfied that the appeal is devoid of any merit. The contention of Mr. Maheshwari that because higher wages are being paid in view of the implementation of the recommendation of the Central Wage Board and as such an incentive scheme is no longer necessary, cannot be accepted. It should be remembered that the wages fixed by the Wage Board apply uniformly to the various categories of workmen to whom it applies. The payment of wages does not normally depend upon the outturn of work of a particular employees or group of employees in a particular section. On the other hand, the payment under an incentive scheme is really by way of additional wages for giving higher production which ultimately goes to increase the profits of the Company. In the case of sugar factories payment of such incentive is called "premium". The payment of such premium is really related to giving production, higher than the quantity that would otherwise have been normally produced. It is needless to state that higher production may result either by installation of modern machinery or by the increased efforts made by the workmen or due to the combined effect of both these factors.

8. In this case, though the appellant pleaded that it had modernised the machinery, and that the greater production was really due to this circumstance, the Tribunal has rightly held that the appellant had adduced no evidence in that regard. At this stage it may be mentioned that neither the appellant nor the workmen adduced any evidence, oral or documentary, before the Tribunal. Both of

them relied only on the statements contained in the pleadings filed by the parties before the Tribunal. On the basis of the averments contained in the pleadings, arguments were advanced by the parties before the Tribunal. Nevertheless, the Tribunal has shown some consideration in favour of the appellant when it assumed that the company may have made some expansion after the two units were integrated in 1964-65. But it has definitely held that the higher production is substantially due to the increased efforts of the workmen in the particular sections. Once it is found that the higher production is mainly due to the increased effort made by the workmen, the Tribunal, in our opinion must be held to be justified in re-introducing with modifications, the incentive scheme all along in force in the company. It is also to be stated at this stage that the jurisdiction of the Tribunal to re-introduce the incentive scheme had not been challenged by the appellant either before the Tribunal or in this Court.

9. Mr. Maheshwari, however, attacked the finding of the Tribunal that the additional production is mainly due to the increase efforts of the workmen and not due to the modernised machinery put up by the appellant. Normally a criticism like this will require a very serious consideration by this Court. If the appellant had established the fact of installation of modern machinery which has resulted in higher production, then the higher production, if any, due to increased efforts of the workmen may have to be separately considered. But, in this case, the appellant is faced with this difficulty in that it did not lead any evidence in that regard. But the counsel urged that the averment in its pleadings regarding installation of modern machinery has not been controverted by the workmen. We have gone through the averment in Paragraph 6 of the statement filed by the appellant before the Tribunal and which has been relied on before us as containing the necessary averments regarding installation of additional plant and machinery. The material averments in the said paragraph are only to the effect that the appellant considered it advisable and economical to increase the crushing capacity of the factory to 3000 tons per day by expansion and amalgamation of plant and machinery of Buland factory into Raza factory. These averments, in our opinion, do not assist the appellant. They refer only to the amalgamation of the plant and machinery of Raza Factory and Buland Factory into one unit. No doubt the averments contained in Paragraph 6 have been admitted in the statement filed by the workmen. But this admission relates only to the facts mentioned in Paragraph 6, referred to above. It must only be considered to be an admission of the appellant's statement that the two factories were integrated and the crushing capacity increased to 3000 tons per day. These are statements of facts about which there can be no controversy. But the point to be noted is that there are no particulars even in Paragraph 6 of the appellant's statement as to what exactly was the nature of expansion done by the company. Notwithstanding the absence of any particulars regarding expansion and modernisation of machinery, the Tribunal has assumed that there may have been some expansion which would have contributed to some higher production. But the definite finding of the Tribunal is that the increased higher production is mainly or substantially due to increased efforts put in by the workmen. We hold that this finding of the Tribunal has been properly arrived at on the materials on record.

10. Then the question is whether the modification effected in the incentive scheme by the Tribunal are justified. In the case of the case carriers the Company was originally paying incentive bonus at a particular rate if the crushing capacity exceeded 335 tons. This was the case in respect of each of the factories. What the Tribunal has done was that after the amalgamation of both the factories, it is reasonable to increase the minimum from 335 tons to 670 tons. That is, the Tribunal directed that premium will be paid to the cane carriers if the daily crushing exceeded 670 tons. According to the original scheme the payment to the cane carriers was to be paid as follows :

"1. Cane carriers. - The system of payment of incentive bonus

(i) Lower than 335 tons cane crushed per shift - Nil.

(2) From 335 tons to 370 tons 1/6 per every coolie present, -/2/- for every cane carrier mate and -/3/- for supervisor.

(3) From 371 tons per shift awards 2/6/- per coolie, -/3/- per mate and -/4/- per supervisor."

11. The Tribunal modified the clauses by directing that for the figures 335, 371 and 371 the figures 670, 740 and 742 respectively shall be substituted. That is, the tribunal doubled the quantity fixed under the original scheme. According to Mr. Maheshwari as the production capacity of the combined unit has been increased to 3000 M. tons, the Tribunal should have fixed the minimum as 1005 tons. We are not inclined to accept this contention of the learned counsel. If the appellant wanted to establish that the premium is to be paid only if the production exceeds 1005 tons, then it should have furnished particulars regarding the production capacity of the machinery as well as the normal production that could be fixed for an individual or a group of individuals working in a particular section. The appellant not having taken any steps in that regard, the direction given by the Tribunal has to be sustained.

12. So far as Filter Presses are concerned, though the employees working therein were originally given by the appellant premium under the original scheme, the Tribunal has held that the employees in that section are not entitled to the payment of premium as such payment is not related to production. Regarding this direction the appellant cannot have any grievance.

13. Regarding Centrifugals, Evaporators and Heaters, the Tribunal has adopted the clauses already contained in the original scheme. Mr. Maheshwari was not able to satisfy us that the directions given by the Tribunal regarding Evaporators and Heaters are in any manner erroneous. In fact we have gone through those clauses of the scheme and we are satisfied that the payment mentioned therein is really related to higher productions and therefore they have been rightly included in the incentive scheme.

14. But, regarding Centrifugals, Mr. Maheshwari contended that the Tribunal has committed an error in continuing the practice as per the original scheme. His contention is that this item is similar to Filter Presses. The Tribunal having abolished the incentive scheme regarding the latter, it should have applied the same principle and abolished the scheme regarding Centrifugals also. We are not inclined to accept this contention of the learned counsel. The ground on which the scheme was cancelled in respect of Filter Presses was that the payment referred to therein is not related to production. We have gone through the clause relating to Filter Presses as contained in the original scheme. It is clear from the said clause that the amounts referred to therein which are of an ad hoc character have to be paid under all circumstances without any relation to the production. On the other hand, a perusal of the clause relating to Centrifugals, which has been retained by the Tribunal consists of three parts. The first part relates to the rate at which payment is to be made to the employees, referred to therein. The second part relates to the distribution of the premium amongst the various shifts based on the total sugar production per month, which has to be of a particular quality. The third part relates to non-payment of premium if the quality of sugar is not as mentioned therein, and it further provides for deduction of the premium not only from the particular shifts but also from the total amount payable in the circumstances mentioned therein. These various aspects clearly indicate that the payment is related to production of a particular quality of sugar. Therefore, the principle applicable to the cancellation of the scheme in respect of Filter Presses, do not apply to

Centrifugals. Hence the Tribunal was justified in retaining the clauses in the incentive scheme regarding Centrifugals.

15. In the result, the award of the Industrial Tribunal is confirmed and this appeal will stand dismissed. As there is no appearance by the respondents, there will be no order as to costs.

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