

SUPREME COURT OF INDIA

Workmen of M/s.Voltas Ltd.

Vs.

Voltas Ltd.

C.A.No. 380 of 1968

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

21.12.1972

JUDGEMENT

DUA, J.:-

1. This appeal by special leave against the award dated October 16, 1967 of the Additional Industrial Tribunal, Bangalore is restricted to the following three grounds:

1. The difference in the direction of the Tribunal in regard to Dearness Allowance contained in para 14 and para 22 of the Award;
2. The ceiling fixed in regard to Dearness Allowance; and
3. The scale of wages for Daphtaries. The principal grievance on which Shri Tarkunde has

addressed elaborate argument is point no. 2 dealing with the question of ceiling fixed in regard to Dearness Allowance. The order of reference of the the dispute made by the Government of Mysore reads:

ORDER

"Whereas the Government of Mysore are of opinion that an Industrial Dispute exists between the workmen and the Management of Voltas Ltd., 21, Kasturba Road, Bangalore 1 on the points noted below :

Now therefore in exercise of the powers conferred by clause (d) of sub-section (1) of the Section 10 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Government Mysore hereby refer the said dispute for adjudication to the Industrial Tribunal at Bangalore.

POINTS OF DISPUTE

Demand no. I - Scales and grades

... ..

3. Daphtaries 75-5-100-8-140-10-200

... ..

Demand no. III - Dearness Allowance

The existing scheme of Dearness Allowance should be revised on the following lines with effect from 1-10-1964 and applied to all employees working under Bangalore Branch-

When the consumer price index number for Bangalore is in the Bracket of 381-390.

for the 1st Rs. 100/- basic wages 150% variation 5% for every 10 points.

for the 2nd Rs. 100/- basic wages 75% variation Rs. 21/2% for every 10 points.

for the balance basic wages 37 1/2% variation 11/4% for every 10 points.

Minimum D. A. Rs. 87 variation Rs. 3/- for every 10 points.

Order of reference of the dispute to the Industrial Tribunal, Bangalore.

Sd/ G. G. Prohit

Under Secretary to Govt.

Labour and Municipal Admn. Deptt."

In the Award in answer to the issues framed it was observed, inter alia:

... ..

(ii) The D. A. paid to the workmen at Bangalore Branch should be varied according to formula given in the Award keeping the maximum at Rs. 400/- which is the maximum prevailing in the Madras Branch of the Company and which is also settled between the Parties of the Bombay Branch pending adjudication."

In the operative portion of the award it was directed, inter alia:

"Demand no. 3: The D. A. payable to the employees has already been set out above for the reasons stated therein the D. A. will be payable as follows:

When the Consumer Price Index for Bangalore is in the bracket of 381-390 for the first hundred neutralisation at 90 per cent, and variation at 5 per cent, for every 10 points. For the second hundred neutralisation at 45 per cent, and variation of 2 1/2 per cent at every 10 points and for the balance neutralisation at 22 1/2 per cent, at variation of 1 1/4 per cent, for every 10 points, the minimum D. A. being Rs. 50/- and the maximum D. A. being Rupees 400/- and the variation to be calculated at Rs. 3/- for every 10 points. The Index to be used for determining the bracket, will be the one established for the previous month and so declared by the Government."

2. The main contention raised on behalf on the appellants in this Court is that there was no existing scheme of Dearness Allowance fixing the maximum ceiling applicable to the employees under Bangalore branch of Messrs. Voltas Ltd. and, therefore there could be no question of the revision of any ceiling on Dearness Allowance payable to such employees. The circular dated March 12, 1959 on which reliance is placed by Shri Pai in support of the claim that there is ceiling on the maximum Dearness Allowance applicable to all offices of the respondent in India is, according to Shri Tarkunde, inapplicable to Bangalore. That circular reads:

"Bombay, 12th March, 1959 Circular to all offices

DEARNESS ALLOWANCE - MAXIMUM

It has been decided to raise the present maximum Dearness Allowance payable to Rs.350/- per month will apply uniformly to all offices in India with effect from 1st April, 1959.

2. Dearness Allowance will continue to be paid on the usual basis at the rates applicable at each place subject to the maximum stated above .

3. This supersedes all other previous circulars on the subject but does not affect those employees whose Dearness Allowance is separately provided for in their respective Agreements of Service.

VOLTAS LIMITED

Sd/ S. K. Handoo

Managing Director and General Manager".

3. According to Shri Tarkunde's general submission there can be no ceiling on dearness Allowance as Dearness Allowance is linked with the cost of living and price index with the result that since there can be no question of ceiling on the cost of living or the prices, it is futile to speak of ceiling on Dearness Allowance. The object of Dearness Allowance scheme, it is emphasised in this connection, is to neutralise the rise in the cost of living and, therefore, the two cannot be delinked. Shri Tarkunde has further contended that assuming there was a scheme fixing maximum ceiling on Dearness Allowance applicable to the Bangalore branch, no notice of change in the terms of the scheme was given as contemplated by Rule 34 of the Industrial Disputes (Central) Rules, 1957. In the absence of such notice, the change, according to the submission is invalid and unenforceable. The question of fixation maximum Dearness Allowance is the main grievance of the appellant-Workmen, says Shri Tarkunde.

4. Shri Pai has, on the other hand, contended that the question of the existence of ceiling on Dearness Allowance in the Bangalore branch has not been decided by the Tribunal and indeed the workmen-appellants had stoutly objected to this question being raised by the management respondent before the Tribunal. The question of the existence of ceiling, in Shri Pai's submission, is therefore at large. He has drawn our attention to the order of reference in support of the contention that this question in terms was not referred. He has also referred us to para 36 of the rejoinder of the management and to the appellant's reply thereto, for showing that according to the management the Dearness Allowance ever since the settlement of 1962 has been linked to the cost of consumer price number bracket for 381-390 for Bangalore. A passing reference has also been made to the decision of this Court in *M/s. Voltas Ltd. v. I. M. Demello*, (1971) 2 Lab LJ 307 = (AIR 1971 SC 1902 = 1971 Lab IC 1171) to fortify his contention that the Tribunal did not decide the question of existence of ceiling.

5. After hearing the arguments addressed by the parties we are of the opinion that for the purpose of

satisfactorily determining the dispute referred to the Tribunal it is also necessary to decide the question whether or not there was in existence a ceiling on Dearness Allowance applicable to the employees of the Bangalore branch of the respondent Messrs. Voltas Ltd. As it is suggested that the parties have not adverted to this question in their respective statements of claims and full material has, therefore not been brought on the existing record, we consider it just and proper to afford adequate opportunity to both parties to place on the record whatever fresh material they desire on this point. We accordingly allow the appeal, set aside the impugned award dated October 16, 1967 by the Additional Industries Tribunal, Bangalore and remit the case back to the Tribunal for a fresh decision in accordance with law, after allowing the parties to file further relevant statements of their cases and produce other material on the question of the existence and fixation of maximum Dearness Allowance. The Tribunal will have to determine whether any ceiling on Dearness Allowance exists governing the employees in the Bangalore Branch and also whether such ceiling can in law be fixed . The Tribunal will then finally dispose of the reference in accordance with law.

6. As this dispute has been pending since 1965 the proceedings should be expedited and attempt should be made to finally dispose of the reference within six months of the receipt of the record. During the interval Dearness Allowance should be paid to the employees of the Bangalore branch with effect from January 1, 1970 on the basis of the maximum of Rs. 450/- but this would be subject to the final decision of the Tribunal. The cost in this Court would be paid by the respondent to the appellant.

Appeal allowed. Case remanded.