

Sohan Singh and Others

Vs

General Manager, Ordnance Factory, Khamaria, Jabalpur and Others

Civil Appeal No. 914(NI) of 1972

(V. R. Krishna Iyer, N. L. Untwalia JJ)

18.03.1975

JUDGMENT

UNTWALIA, J. –

This is an appeal by certificate under Article 133(1)(a) of the Constitution as it stood before the Thirtieth Constitution (Amendment) Act from the order of the Madhya Pradesh High Court passed in Miscellaneous Petition No. 280 of 1970 filed by the respondents. The appellants filed seven applications before the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur under Section 33-C(2) of the Industrial Dispute Act, 1947. The applications were allowed and certain directions were given by the Labour Court for quantification of the claims of the appellants. The High Court in the writ petition filed by the respondents has not examined the merits of the order of the Labour Court. It has set aside that order on the ground that on the facts and circumstances of this case the applications under Section 33-C(2) were not entertainable by the Labour Court. We think that the view taken by the High Court on the facts of this case is not correct because the jurisdiction of the Labour Court was not challenged by the respondent in that Court. Issue No. 4 settled for trial by the Labour Court was in the following terms :

Whether the applicants were transferred to Ordnance Factory Khamaria on same terms and conditions of service which they had at Meerut and they willingly accepted the reduced pay and a new-assignment in Khamaria Ordnance ?

The High Court seems to have taken the view that the trial of such an issue was beyond the competence of the Labour Court; but it has rightly been pointed out on behalf of the appellants that instead of challenging the competence or the jurisdiction of the Labour Court to try issue No. 4, the respondents went to trial, submitted to its jurisdiction and when a decision was given against them by the Labour Court, they, for the first time, challenged its jurisdiction to try that issue in the High Court. On the facts of this case, therefore, we are satisfied that the High Court ought not to have entertained the point of jurisdiction urged on behalf of the respondents and set aside the order of the Labour Court on that ground alone.

2. We therefore allow this appeal, set aside the order of the High Court, remit the case back to it with a direction to rehear the miscellaneous petition on merits and dispose it of according to law. There will be no order as to costs.

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