

The Rambagh Palace Hotel, Jaipur

Vs

The Rajasthan Hotel Worker's Union Jaipur

Civil Appeal No. 2626 (NL) of 1969

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

05.01.1976

JUDGMENT

KRISHNA IYER, J. -

1. The appellant, the management of the Rambagh Palace Hotel, Jaipur, has attacked the award made by the Industrial Tribunal, Rajasthan in favour of the workers of the hotel in the dispute raised on the score that the price index having gone up the workers were entitled to adequate compensation by way of dearness allowance. Very fairly, Shri V. S. Desai appearing for the appellant has confined his ground of challenge to one point. He states that the Industrial Tribunal while it has reduced the award of dearness allowance considerably vis-a-vis the demand put forward, after taking into consideration various circumstances like free food and accommodation, the tribunal has failed to bear in mind the circumstance that tips in the shape of half the salary are also being distributed by the management to the workers. He has brought to our notice the decision of this Court in *Management of Wenger & Co. v. Workmen* ((1963 Supp 2 SCR 862 : AIR 1964 SC 864 : (1963) 2 LLJ 403), where it has been pointed out that while the right to treat the tips received by the waiters may not be wholly irrelevant to the decision of the question about the matter of D. A., it would not be right either to make a calculation about the tips received and treat the said amount as a substitute either wholly or partially for the D. A. itself. The proper approach, according to this Court, is for the tribunal to bear in mind the fact that tips are received and make some suitable adjustment in that behalf. According to counsel, the payment of tips has been lost sight of by the tribunal and therefore the order making award by way of dearness allowance should be interfered with and modified to some extent.

2. We regret to be unable to agree with the counsel on this point. It is well-known that in important hotels in the country, the appellant is now a five star hotel-the customers are of the affluent variety and pay tips either to the waiters directly or in the shape of service charges or otherwise to the management along with the bill for the items consumed. In short, the true character of tips cannot be treated as any payment made by the management out of its pocket but a transfer of what is collected to the staff as it is intended by the payer to be so distributed. It may also happen that more money comes in by way of tips into the pockets of the management than distributed by it. We cannot therefore consider the receipt of tips by the staff as anything like a payment made by the management to its employees warranting consideration by the tribunal to depress the award of dearness allowance. Of course, it is a factor which may perhaps be in the mind of the tribunal when he finalised the actual figures. There is no reason for us to think that although not specifically put down in his order, the tribunal has lost sight of this circumstance. For this reason, we think there is no ground for interference with the award of the Industrial Tribunal. Having regard to the fair way the case has been placed before us, we do not regard this as a case where costs should be awarded

while dismissing the appeal. The appeal is dismissed but the parties will bear their own costs.

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