

The Hindustan Construction Co. Ltd.

Vs

Shri G. K. Patankar and Another

Civil Appeal No. 839 of 1975

(Y.V. Chandrachud, V.R. Krishna Iyer, A.C. Gupta JJ)

23.01.1976

JUDGMENT

GUPTA, J. -

1. Following a settlement with the workers employed in their different branches, the appellant, Hindustan Construction Co. Ltd. (referred to hereinafter as the company) paid to these workers an amount equivalent to 6 per cent of their total earnings for the financial year ending July 31, 1971, in addition to bonus at 4 per cent of the annual earnings. Paragraph 4 of the memorandum of settlement reads :

It was decided that although the workers were entitled to 4 per cent bonus under the Bonus Act, it will be necessary to afford some relief to the workers. It was agreed that cover and above 4 per cent bonus, the Hindustan Construction Company will pay additional amount of 6 per cent ex gratia to the workers for the year 1970-71 in the pay packet of June, 1971.

The workmen employed in the head office of the company at Bombay demanded that they should also be paid an amount equivalent to 6 per cent of their total earnings for the financial year ending July 31, 1971 in addition to bonus at 4 per cent of annual earnings as had been paid to other employees of the company. The company by its notice dated March 14, 1972 had notified that the workmen at the head office would be paid bonus at 4 per cent of their total earnings for the year 1970-71. The dispute arising on this demand by the head office employees was referred for adjudication to the Industrial Tribunal, Maharashtra, Bombay. The tribunal agreeing with the contention of the workers that what was paid to the employees at the branch offices as ex gratia amount, was in fact nothing but additional bonus for the year 1970-71 held that the demand was legal and proper and directed payment of bonus to the workers at the head office at the rate at which it had been paid to the workers at the branch offices. The company challenged the award by filing a writ petition in the Bombay High Court. The High Court rejected the petition summarily with the following observation :

All contentions of the petitioner company are technical. However, substantial justice has been done in payment to head office workmen in accordance with the application of the principle of uniformity.

Hence this does not appear to be a matter for interference.

This appeal by special leave is directed against the above order of the High Court.

2. Mr. B. Sen, learned Counsel for the appellant, contended that in the face of the clear statement in the memorandum of settlement between the company and the Federation representing the workers at the branches that what was being paid to them was an ex gratia relief, the tribunal was wrong in holding that the amount paid was an additional bonus. It was submitted that the tribunal acted without jurisdiction in extending the benefit under settlement to the workmen at the head office who were not parties to the settlement. Mr. Sen further pointed out that these workmen had no legal right to claim any additional amount as bonus in view of the admitted fact that in the relevant accounting year the company had suffered a loss. It was argued that the Payment of Bonus Act, 1965 was a complete code in regard to the subject of bonus and in terms of Section 10 of the Act the workers were not entitled to any amount as bonus beyond the minimum 4 per cent in the year in question.

3. We do not however consider it necessary to decide whether the tribunal was right in treating the additional payment made to the workers at the branches as bonus in our opinion, the award has not occasioned a failure of justice and the High Court was not wrong in declining to interfere on that ground. It appears that the company had spent about Rs. 20 lakhs in giving this additional relief to the workers at the branches numbering about 13,000. The workmen at the head office are much fewer in number and the affidavit-in-opposition filed in this Court on their behalf states that extending the benefit to them would cost the company only Rs. 1 lakh more. The High Court found the extension of the benefit of the workers at the head office justified on the principle of uniformity which in this case serves to maintain industrial peace. In these circumstances if the High Court refused to interfere on the ground that substantial justice had been done, we find no reason to hold that the High Court had exercised its discretion arbitrarily. This Court has refused to interfere in similar circumstances in more than one case, though the order complained of might suffer from some infirmity. (See *Shree Balwantraji Chimanlal Trivedi v. M. N. Nagrashna* (AIR 1960 SC 407 : (1959) 2 LLJ 837) and *A. M. Allison v. B. L. Sen* (1957 SCR 359 : AIR 1957 SC 227 : (1957) 1 LLJ 472)). We are not therefore inclined to disturb the order made by the High Court which we consider reasonable and proper in the circumstances of the case.

4. The appeal is accordingly dismissed but in the circumstances of the case without any order as to costs.

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