

M/s. Rohtas Industries Ltd.

Vs

Workmen Represented by Rohtas Industries Mazdoor Sangh and Another

Civil Appeal No. 1012 Of 1976

(P.K. Goswami, N.L. Untwalia JJ)

03.09.1976

JUDGMENT

GOSWAMI, J. –

1. There was a reference to the Industrial Tribunal, Patna under Section 10(d) of the Industrial Disputes Act. There were several items of dispute referred to the tribunal for adjudication and the tribunal gave its award on January 31, 1974. The management has filed the application for special leave. When this matter had earlier come up for hearing this Court issued notice to the respondents to show cause why special leave should not be granted only with regard to item 6, namely 6 in the schedule of reference, which may be quoted :

6. Whether the following Malis are entitled to be departmentalised ? If so, since when and in which scale of pay ?

#1. Shri Pukhan 12. Shri Ram Pratap2. Shri Ram Naresh 13. Shri Ganeshi3. Shri Mahadeo 14. Shri Deonandan4. Shri Hargovind 15. Shri Rampati5. Shri Umraon Singh 16. Shri Ram Bilash6. Shri Deonarain 17. Shri Suraj Choubey7. Shri Suraj Singh 18. Shri Ramlakhan Chaudary8. Shri Bishamdeo 19. Shri Baliram9. Shri Baban Singh 20. Shri Gautam Giri10. Shri Jagdish 21. Shri Sahdeo Sharad11. Shri Sheodeni 22. Shri Angad.##

2. We have admitted the appeal and have heard learned counsel for both sides. The learned counsel for the respondents strenuously contends that the management has, by its conduct, forfeited its right to examine witnesses before the tribunal. We are not impressed by this argument. The tribunal refused to allow the management an opportunity to examine witnesses on the sole ground that it had not earlier submitted the written statement. That ground in an industrial matter, would not be sufficient to refuse examination of witnesses when the management later on pressed for it. This is against the principles of natural justice. It appears from the award that the tribunal came to its conclusion in respect of item 6 relying upon certain documents without giving an opportunity to the management to produce evidence in rebuttal. In view of this we cannot sustain the award with regard to item 6. The appeal is allowed and the matter is remitted back to the tribunal for disposing item 6 referred to above preferably within 3 months from receipt of this order after giving reasonable opportunity to both parties. The award in respect of other items stands. There will be no order as to costs.

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