

Shaw Wallace & Co. Ltd.

Vs

Workmen and Others

Civil Appeal No. 777(NI) of 1971

(V. R. Krishna Iyer, D. A. Desai JJ)

31.01.1978

JUDGMENT

KRISHNA IYER, J. -

1. This appeal by special leave under Article 136 of the Constitution has been argued at some length by the Management, the appellant, against whom an award has been made for payment of compensation to fifteen workmen whose services, according to the Labour Court, have been improperly terminated. The compensation was Rs. 2000 per head so that the total subject-matter is Rs. 30,000 although the case itself has reached the Supreme Court on an earlier occasion with the result that the costs of the litigation far exceed the value of the subject-matter, in all probability. This is the besetting sin of Indian litigation, especially in the industrial jurisdiction.

2. Be that as it may, the special jurisdiction of this Court under Article 136 can be invoked ordinarily only where there is manifest injustice, fundamental flaw in law or perverse findings of facts. After having heard Counsel elaborately, we are satisfied that this jurisdiction cannot be exercised on any of the above grounds. Basically justice has been done. There is some basis, some material to validate the award. Therefore, our jurisdiction stands repelled unless there are special circumstances which we fail to discern.

3. In an affirming judgment, the facts and the law need not be elaborately set out by this Court and brevity is the better course. Moreover, the facts have been once fully set out in the earlier order of this Court and a repetition in narration is otiose. Pithily put, the facts are that the Brahmaputra Tea Estate Company had employed the fifteen workmen who raised a dispute when their services were terminated on the score of alleged superannuation. It was found by the Labour Court that the termination of services was improper and instead of directing reinstatement of the workmen, compensation was awarded. The short question is, whether M/s. Shaw Wallace & Co. Ltd., the appellant, was at all responsible for the termination of services of employees of the Brahmaputra Tea Estates. The Labour Court spelt out such liability on the foundation that the Management was in the hands of Shaw Wallace & Co. at the relevant time. It is fairly conceded in the written statement of the appellant that as agent of the receiver, the appellant was managing the gardens at the relevant time. If they did act as an agent of the receiver - the receiver had been appointed by the Court in a suit filed by one of the creditors of the Tea Estates - the only question to be considered is whether the said agent in management did commit the offending act of illegal termination of services of the workmen. There is enough material on record to show that while there was a Receiver in office during the period the termination took place, M/s. Shaw Wallace & Co. were effectively in management, were giving instructions to the Superintendent of the Estate, were financing operations, were negotiating for the sale of the Estate and otherwise involving themselves in all that

a management would undertake. We need not set out in detail documentary and oral evidence which backs this finding of the Labour Court. Once it is seen that there is some supportive testimony, it is not for us to interfere and demolish the finding. Therefore, the factual position, to sum up, is that a Receiver was in charge of the Tea Estates, but presumably with the permission of the Court the management has been left to M/s. Shaw Wallace & Co. and under instructions from this management the termination of services of the fifteen workmen was effected. Once it is found - and it has been so found - that the termination was illegal, the liability flowing therefrom is on him who was responsible for such termination. Niceties of law cannot extricate the appellant from an obligation that flows directly from his act. We are, therefore, unable to accede to the many contentions put forward by the appellant and hold that the appeal deserves to be dismissed.

4. May be M/s. Shaw Wallace & Co. may have a claim against the Receiver but we are not concerned to pursue that liability if it exceeds (sic exists) at all. That is a matter to be worked out between the appellant and the court receiver or any other party who may be found in appropriate proceedings to be responsible. We do not pronounce on that except to state that we are not deciding against the appellant in any claim that he may have against any other party. Suffice it to say that vis-a-vis the workmen, the appellant's liability found by the award cannot be upset by this Court. We dismiss the appeal with costs. One set. And in view of the order of this Court earlier we further direct that the sum awarded shall carry 6 per cent interest.

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