

Crompton Greaves Ltd.

Vs

Its Workmen

Civil Appeal No. 1812(L) of 1971

(V. R. Krishna Iyer, Jaswant Singh JJ)

03.04.1978

JUDGMENT

JASWANT SINGH, J. -

1. This appeal by special leave challenges the award dated December 30, 1970 of the Eight industrial Tribunal, West Bengal in reference made of it by the state Government under Section 10 of the industrial Disputes Act, 1947 holding 'the striking worker entitled to their wages' for a portion of the strike period viz., from January 11, 1968 to the end of February, 1968, and directing the appellants to pay the same to the workmen within one month from the date of the publication of the award in the Calcutta Gazette.

2. For a proper appreciation of the question involved in the appeal, it is necessary to set out the circumstances leading on the strike which lie in a short compass. On 27th December 1967, the appellants, M/s. Crompton Greaves Ltd., Calcutta, (hereinafter referred to as 'the company'), which is an engineering concern engaged in the manufacture and sale of electrical product such as motor-fans, motor control guards, transforms and other electrical instrument, and has its Registered office at Bombay and branches at several places in India, intimated to Greaves Cotton and Crompton Parkinson Associate Concerns' workmen's Union Calcutta (hereinafter referred to as 'the Union') its decision to reduce the strength of the workmen in its branch at Calcutta on the ground of severe recession in business. Apprehending mass retrenchment of the workmen who numbered 353, the union sought the intervention in the matter of the Minister-in-charge, Labour and the Labour Commissioner Thereupon, the Assistant Labour Commissioner arranged joint conferences in his office of the representatives of the union and the company with a view to explore avenues for conciliation and amicable settlement. Two conferences were accordingly held on the 5th and 9th January, 1968 in the which both the parties participated. As a result of these conferences, the company agreed to hold bi-partite talk with the representatives of the union at its Calcutta office on the morning of January 10, 1968 to find out the possibility of an agreed solution. The talk as agreed, did take place on the morning of January 19, 1968 but no agreement could be arrived at. Whereas according to the union, the management of the company was not serious to arrive at a negotiated settlement and merely made a show of discussing the matter with its representative, according to the management of the company, the unseemly and recalcitrant attitude adopted by the union during the course of the talk led them to believe that the union was not interested in any fruitful negotiation. The assistant Labour commissioner, however continued to use his good offices to bring about an amicable settlement through another joint conference which was scheduled for January 12, 1968. On the afternoon of January 10, 1968, the company without informing the labour commissioner that it was proceeding to implement its proposed scheme of retrenchment, hung up a notice retrenching 93 of its workmen belonging to it Calcutta office. Treating the step taken by the company as pretty

serious demanding urgent attention and immediate action. The workmen resorted to strike with effect from January 11, 1968 after giving notice to the appellant and the Labour Directorate and continued the same upto June 26, 1968, in the meantime the industrial dispute in relation to the justification of the aforesaid retrenchment was referred by the state Government to the Industrial Tribunal on March 1, 1968. Subsequently the state Government vide its Order No. 8890-I.R./IR/IOL/79/67, dated December 13, 1968 referred the issue of the workmen's entitlement to wages for the strike period from January 11, 1968 to June 26, 1968 to the Industrial Tribunal for adjudication, by its aforesaid dated December 30, 1976 the industrial Tribunal accepted to the workmen's demand for wages for the period commencing from January 11, 1968 to the end of February 1968 but rejected their demand for the remaining period of the strike observing that "the redress for retrenchment having been sought by the union itself through the Tribunal, there remained no justification for the workmen to continue the strike". The scope of the appeal is, therefore restricted to the determination of the short question of entitlement of otherwise of the striking workmen to wages for the period commencing from January 11, 1968 and ending with February 29, 1968.

3. Before proceeding to formulate the points arising for consideration in this appeal, we think it appropriate to advert to the legal position bearing on the upshot of the appeal.

4. It is well-settled that in order to entitle the workmen to wages for the period of strike, the strike should be legal as well as justified. A strike is legal if it does not violate any provision of the statute. Again, a strike cannot be said to be unjustified unless the reasons for it are entirely perverse or unreasonable. Whether a particular strike was justified or not is a question of facts which has to be judged in light of the facts and circumstances of each case. It is also well-settled that the use of force or violence or acts of sabotage resorted to by the workmen during a strike disentitles them to wages for the strike period.

5. In the light of the above mentioned principles, the following two points arise for consideration in this case : -

1. Whether the aforesaid strike was illegal or unjustified ?

2. Whether the workmen resorted to force or violence during the portion of the strike period commencing from January 11, 1968 and ending with February 29, 1968 ?

6. Re. Point No. 1. - No specific provision of law has been brought to our notice on behalf of the appellant which rendered the strike illegal during the period under consideration. The strike cannot also be said to be unjustified as before the conclusion of the talks for conciliation which were going on through the instrumentality of Assistant Labour Commissioner, the company retrenched as many as 93 of its workmen without even intimating to the Labour Commissioner that it was carrying out its proposed plan of effecting retrenchment of the workmen. Point No. 1, therefore, is answered in the negative.

7. Re. Point No. 2. - The only other point that remains to be decided is whether the striking workmen resorted to force and violence between January 11, 1968 and the end of February, 1968 which disentitled them to wages.

8. The Tribunal has held that it has not been proved that the workmen resorted to force and violence during the period in question. We have ourselves gone through the entire evidence adduced in the

case but have not been able to discern anything therein which may imply us to take a view different from the one taken by the Tribunal. May be that force and violence was resorted to by the striking workmen but the vital question that confronts us is whether the company has been able to establish it. No clear, cogent and disinterested evidence has been adduced to substantiate the charge that the striking workmen garoaded the managerial staff or assaulted and intimated the loyal employees or cut off electric lines or prevented any dealer from entering the business premises of the company and transacting business with it. No prosecution also appears to have been launched in regard to any of these alleged incidents excepting the one by C. G. Biswanathan which was also later on withdrawn. The company has failed to produce either Mr. Bose or any other employee mentioned in its various letters to the Police. The material on the record thus falls for short of the standard of proof required in case of this nature. The Tribunal was, therefore, justified in holding that the Management has failed to prove that the workmen resorted to force and violence during the period with which we are concerned. Accordingly, we cannot interfere with the decision of the Tribunal in this appeal under Article 136 of the Constitution.

9. For the foregoing reasons, we find no merit in this appeal which is dismissed but without any order as to costs.

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