

Raja Bahadur Motilal Poona Mills Ltd.

Vs

Girni Kamgar Sanghathana, Poona

Civil Appeal No. 524 of 1975

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

08.12.1978

JUDGMENT

KRISHNA IYER, J. –

1. This appeal has been set down for hearing on more than one occasion and has taken us considerable time not because the facts are complicated, nor because principles governing the decision are novel, but because attempts were made after some discussion in Court, to see if differences could be ironed out and smooth relations established between the employer and the workmen. While we have been benefited by charts and statistics, we have not been able to arrive at an agreed solution to the problem.
2. The question basically turns on to the increase in the Dearness Allowance demanded by the workmen and eventually granted by the Industrial Court in its award. We are concerned with a solitary textile mill in Poona. Although there are no other textile mills in Poona yet there are a few textile mills in Sholapur with which Poona Dearness Allowance rates have been linked up historically, not necessarily rationally. Further away, we have Bombay, which has round about 65 textile mills. Unfortunately, the cost of living index was available for Sholapur and Bombay but not for Poona until 1965, so much so that Dearness Allowance for workmen of Poona Textile Mills was always linked to the Consumer Price Index of Sholapur, which, in one sense, is artificial but in another, historical. Sholapur has had its fluctuating fortunes in respect of textile mills but Poona has had an undisturbed course in regard to the economies of the mill in question. A time has come as substantially agreed to by the counsel on both sides, when Poona Index, in a sense must realistically govern the Dearness Allowance for the workmen in Poona especially in the industry with which we are concerned here. We have looked at the problem in the light of the various reasons given by the Court and in the further light of comments and criticisms offered by both sides. May be there may be some force in the criticism made by the management here and there. There is something to be said in favour of the attitude of the Court having regard to the submissions made by the workmen's counsel. Perfection of logic is beyond law much more so in the field of Industrial Jurisprudence. Impeccable approaches and mentioned mathematics are alien to this branch of law. We are concerned with the pragmatics of law geared to social justice liberated from legalistics.
3. However, certain basics are clear and indeed fundamental. The constitutional principles of Part IV expressed in Articles 38, 39 and 39-A and values enshrined in the preamble inform and enliven this department of jurisprudence. Flexibility, not rigidity, broader considerations, not fanatical adherence, govern this jurisdiction. Of course, the parameters of industrial law have been made clear for decades by this Court and those guidelines have been, time and again, referred to and reinforced. We are not called for upon to launch on a fresh discussion of the first principles. What is

called for is application of those principles, not with finical nicety but with flexible viability. From one angle it may appear that any decision regarding Dearness Allowance has a touch of arbitrariness or a colour of caprice; from another it may appear unrealistic or unworkable. These are the unavoidable features of this branch of law where actually decisions have to be reached by the application of well-tried principles to the concrete figures presenting themselves.

4. Ultimately, humanism projects itself more than any other. This Court has pointed out that where we deal with the lowest brackets of wages, neutralisation on account of inflationary spirals must be hundred per cent because the right to life with bare necessities cannot be shrunken still further. The higher ranges admit of or accommodate lesser percentage in the matter of neutralisation.

5. We have heard counsel at some length. We have had figures offered to us from both sides. We have experimented with possibilities of results with one formula or other adopted. We have ultimately reached a conclusion without interfering with the ratiocination of the Tribunal but at the same time moderating the figures to some extent with a view to producing maximum justice in the specific situation. We make it abundantly clear that we do not profess to lay down any fresh principles of law but proceed to apply what has already been the law to the given circumstances. We do not give elaborate reasons in explanation of our readjustment of the percentage. Such arguments, if we launch upon them, are likely to give rise to misleading inference in future.

6. We hold that the Court is substantially sound in its conclusions. We further hold that a minor modification is necessary. We bifurcate the span of time covered by the adjudication. The first period will be from January 1, 1974 to October 31, 1978. The second period will commence from November 1, 1978 onwards. All that we do is to substitute a different percentage in place of the one assigned in the award.

7. At this stage, we wish to emphasize two circumstances before we reach the specific conclusion. As stated earlier, the Dearness Allowance of the textile workers in this Poona Industry must once and for all the related solely to the Poona-based Consumer Price Index. This involves not merely a delinking with Sholapur Consumer Price Index but a basic equation at some point of time so that it may be released from the Sholapur-based indices. Therefore, we direct that the Consumer Price Index for Poona (CPI) will be adopted for Poona as on January 1, 1974 equated to the Sholapur index ruling on that date. Thereafter, the Consumer Price Index for Poona alone will be looked into for quantifying the Dearness Allowance.

8. The next question is as to what percentage should be adopted. The Court had adopted 90% of Sholapur. So far as future rises are concerned, it has fixed 5 p. per point of the Poona Index. What we propose to do is as follows :

8-A. We affirm the fixation of the equation so far as Poona is concerned as on January 1, 1974 as done by the Court, but not at 90%, but at 77.5% of the Sholapur CPI. The figures so arrived at will be the numerical figure of Dearness Allowance at ruling Poona CPI on January 1, 1974 and which will thereafter prevail for further equation so far as this industry is concerned. Those further equations will be made no longer with reference to Sholapur but only with reference to Poona Consumer Price index. This will be done by calculating increase in every point not at 5 p. per point as the Court has awarded but at $77.5/90 \times 5$ p. per point.

9. We further direct that for computing D.A. payable from November 1, 1978 the appellant shall

quantify D.A. at 80% of Sholapur CPI as on January 1, 1974 and that figure will be taken as starting point of calculation of D.A. for the appellant mill's workmen as related to ruling Poona CPI on January 1, 1974. Thereafter, future increase will be quantified at 80/0 x 5 p. per each point of rise till November 1, 1978 and that quantified figure would be D.A. at ruling Poona CPI for workmen and future rise will be given as per formula in this para. For the period January 1, 1974 to October 31, 1978 this will remain a notional figure and will become effective from November 1, 1978.

10. What we direct above will be the award in substitution of the award passed by the Court. We make it further clear that while we award full cost to the respondents, we do not award any interest on the difference becoming payable as herein directed. We also make it clear that the sum of Rs. 6 payable as per the recommendation of the second Wage Board will continue to be paid so long as it continues to be paid by the other mills.

11. There is another reference pending between the same parties, that is, Ref. (IC) No. 85 of 1974. Of course, it is not pending before us and so we have no jurisdiction to adjudicate on it. Even so, the Court which is seized of the matter will have due regard to the directions given herein and mould relief in accordance with justice and in tune with this order. The pending reference i.e. IC No. 85 of 1974 is very old and needs to be disposed of expeditiously. Indeed, in the light of what we have decided, it lends itself to early disposal and we direct the Court to do so. The entire amount by way of arrears made on the basis of the new formula we have directed by this order, will be payable in four equal quarterly instalments with interest at 12%. The interest will be paid at 12% from today until the date of payment of final instalment. The first instalment will be payable on March 1, 1979.

12. Appellant to pay costs of the respondent quantified at Rs. 5000.

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