

Mumbai Mazdoor Sabha

Vs

Bombay Dyeing and Manufacturing Co. Ltd., Bombay and Another

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Bombay Dyeing and Manufacturing Co. Ltd. and Others

Civil Appeals Nos. 1448 of 1983

(D. A. Desai, O. Chinnappa Reddy JJ)

01.09.1983

ORDER

1. Mumbai Mazdoor Sabha (Union for short) made an application under Section 11 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (Act for short) to the Industrial Court at Bombay which was registered as Application (MRTU) No. 24 of 1982. This application was rejected by the Industrial Court as per its Order dated March 25, 1983. The Union sought special leave to appeal against the decision of the Industrial Court under Article 136 of the Constitution. Special leave to appeal was granted on April 20, 1983.
2. It transpired during the course of hearing that there was an uninterrupted strike spreading over a period of 600 days and no fruitful negotiation took place as the parties concentrated their energies on the question whether the appellant-Union can get a status of a recognised Union under the Act.
3. Keeping open the question whether the Union is entitled to recognition under the Act, it was suggested to the parties that they should strive to narrow the difference by talking across the table and with this end in view Mr B. N. Sri Krishna who appeared for the respondent-Company agreed to write a letter to the appellant-Union to meet on April 27, 1983 and to continue dialogue from day-to-day to sort out the difference so that the unproductive strike may be discontinued. The matter was then adjourned to May 5, 1983. During the interregnum, nothing constructive emerged. With a view to helping the parties to break the ice the Court gave certain directions; the one worth-noticing being a direction to the Union to withdraw the strike by 9.30 a.m. on May 9, 1983 and asking all the workmen who were on strike to return to the table. To alleviate the hardship of the workmen, the Court directed by way of an interim relief that the respondent-Company shall pay leave travel concession at the rate of Rs 350 per annum to the workmen for the period specified in the Order as also 10 per cent. of the basic wages as house rent allowance. A direction was given that the appeal shall come up for final hearing on September 1, 1983. That is how the matter was listed today before us.
4. We record our appreciation of the constructive role adopted by both sides since our order dated May 5, 1983 by which we facilitated their coming across the table and opening up the dialogue and it has resulted in a satisfactory agreement with regard to number of points in dispute between the

parties, the fundamental amongst them being the status sought by the Union as and by way of recognition and conceding of the same by the respondent. Learned Advocate Mr Ramamurthi, who appeared for the appellant and learned Advocate Mr Nariman who appeared for the respondent assured us this dialogue will continue and a fresh chapter will be opened in the relation between the appellant and the respondent. Both of them requested us to take the settlement arrived at between the parties on record and we hope that industrial harmony will be restored between the appellate and the respondent in near future.

5. The only point involved in this appeal is whether the Industrial Court erred in rejecting the application of the appellant-Union for acquiring the status of a recognised Union under the Act ? No enquiry is necessary to be made in this behalf because the respondent concedes that the appellant Union be recognised as a recognised Union under the Act. We allow the appeal by consent of parties on this point and declare that the appellant-Union is the recognised Union for the workmen of the respondent-Company and this declaration is for the purpose of the Act.

6. To that extent the appeal is allowed and the order of the Industrial Court is set aside. Civil Appeal No. 4148 of 1983 is allowed to the extent herein indicated.

7. At this stage Mr Nariman, learned counsel appearing for the respondent-Company brought to our notice the fact that C.A. No. 1906 of 1982 is pending between the parties and once the respondent-employer concedes the status of the appellant-Union as a recognised Union, the Civil Appeal No. 1906 of 1982 would become infructuous.

8. During the pendency of the complaint made by the appellant Union before the Industrial Court for acquiring the status of a recognised Union, the appellant prayed for interim relief till the disposal of the original complaint preferred by the Union. It is not necessary to set out the nature of the interim relief sought. Suffice it to say that the interim relief was refused and a writ petition filed by the appellant-Union in the High Court of Bombay was rejected by the learned Single Judge. An appeal to the Division Bench by the Union met with the same fate, and thereafter Civil Appeal No. 1906 of 1982 was filed by special leave. The question is whether this appeal any more survives in view of the fact that the main complaint seeking status of a recognised Union stands disposed of by this order. This appeal relates to an interim relief which postulates that the final relief is still not granted. Once the final relief is granted, the question of granting any interim relief does not survive. Therefore, the appeal has become infructuous and stands disposed of accordingly.

9. We would however, like to make it clear that the disposal of Civil Appeal No. 1906 of 1982 in the manner done by this order does not tantamount to this Court affirming the view taken either by the Industrial Court or by the High Court on the merits of the contention therein raised and the contention and the question of law are kept open to be examined in an appropriate proceeding by this Court.

10. In view of the fact that the main issue is disposed of amicably between the parties, the question of costs would ordinarily pale into insignificance. But the Union had twice to come to this Court and a long strike has to be waged for seeking the status of a recognised Union and therefore, we direct the respondent-Company to pay the costs quantified at Rs 5000 for both the appeals.

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