

M. C. Mehta

Vs

Union of India and Others

Civil Miscellaneous Petition No. 19993 of 1986

(CJI P. N. Bhagwati, S. Natarajan JJ)

05.09.1986

ORDER

1. Ms. Kumaramangalam, counsel for the applicant complains in this CMP that two of the employees namely Bhim Sen Bhatia and Mrs. Usha Singh were wrongfully discharged from service by the management and the discharge was by way of victimization for their Unionist activities as also because they took an active part in opposing the management and proceedings arising out of the case concerning escape of gas. This allegation is disputed by Mr. Nariman on behalf of the management and he informs us that in fact an application for approval of the Industrial Tribunal for discharge of Bhim Sen Bhatia and Mrs. Usha Singh has been made by management long back under Section 33 (2) of the Industrial Disputes Act, 1947 and the application is still pending. It is a matter of regret that applications for approval should remain pending before the Industrial Tribunal for over 9 months when Section 33 (5) of the Act provides in clear terms that when an application for approval is made by the employer under Section 33 (2) the authorities concerned shall without delay clear such applications and pass within a period of 3 months from the date of receipt of such application, such order as it may deem fit. The application made on behalf of the management in respect of Mr. Bhim Sen Bhatia and Mrs. Usha Singh should have been disposed of by the Industrial Tribunal within a period of 3 months and since their applications were filed some time in January 1986 the same should have been disposed of by April 13, 1986. But unfortunately we find that they are still pending before the Industrial Tribunal. Perhaps the reason for this pendency is that there are not sufficient number of Tribunals in Delhi. Only two Industrial Tribunals are set up under the Industrial Disputes Act for disputes arising in the Union Territory of Delhi and third Tribunal, though contemplated, has not yet been set up. It is common knowledge that there are a large number of Industrial Units in the Union Territory of Delhi and it is absolutely essential to provide a speedy and effective adjudication machinery for adjudication of industrial disputes arising between the management and workmen in these Industrial Units. We do not whether any steps have been taken by the Delhi Administration for the purpose of gathering statistics which would show how many Industrial Tribunals are necessary in order that the Industrial Disputes are disposed of not later than 3 months from the date of their receipt. It is obvious that the number of Industrial Tribunals in Delhi are not enough and it is necessary to take immediate steps to determine how many Industrial Tribunals necessary and to set up such Tribunals so that the Industrial disputes are adjudicated and disposed of at an early date. We were also surprised to learn that even the two Industrial Tribunals which are set up in the Union Territory of Delhi are without Presiding Officers to man them. The Presiding Officers of these two Industrial Tribunals have been transferred with effect from August 13, 1986 and no Presiding Officers are appointed in their place with the result that there is not a single Industrial Tribunal functioning in Delhi. We would draw the attention of the Union Government for this sorry state of affairs and take immediate steps for remedying it. We would urge

the Delhi Administration to immediately proceed to appoint Presiding Officers in these two Industrial Tribunals and to set up more Industrial Tribunals for the purpose of speedy settlement of the industrial disputes. Application of management for approval of the discharge of Mr. Bhim Sen Bhatia and Mrs. Usha Singh have been pending for over 8 months and it is necessary that these should be disposed of without any undue delay. We would, therefore, ask the government to immediately fill up the vacancy of the Presiding Officers in the two Industrial Tribunals, which are at present up in the Union Territory of Delhi so that the application for the approval filed by the management in the present case can be disposed of by the Industrial Tribunal within one month from today. We need not remind the government that workmen who are discharged and in respect of whom applications for approval are pending would be without any job and it is very cruel to them that they should have to wait for months and months before their rights can be adjudicated and if their discharge was not proper they can be reinstated in service.

2. If for any reason the Delhi Administration is not able to appoint Presiding Officers in the two Industrial Tribunals in time so as to enable the applications for approval made by the management to be disposed of within one month, we would suggest to the Delhi Administration that these applications for approval may be transferred to the appropriate Labour Court in the Union Territory of Delhi for disposal at the earliest so that our direction that these applications for transfer shall be disposed of within a period of one month can be implemented and carried out.

3. We are, therefore not disposing of the present CMP but are merely adjourning it for one month so that the Delhi Administration can do the needful in the matter and the applications for approval etc. are disposed of before the next date of hearing of the Civil Misc. Petition.

4. Copy of the order may be forwarded to the Chief Secretary, Delhi Administration immediately.

Court Master.

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