

M. K. Sharma and Others

Vs

Bharat Electronics Ltd. and Others

Writ Petition (Civil) No. 761 of 1986

(Ranganath Misra, G. L. Oza JJ)

29.04.1987

JUDGMENT

RANGANATH MISRA, J. -

1. This is an application under Article 32 of the Constitution and the petitioners are the Bharat Electronics Employees Union and the Secretary of that Union. Bharat Electronics Limited is a public sector undertaking. The company has its factory at Gaziabad and manufactures electronic components and equipment including integrated circuits, TV picture tubes and sophisticated radars used by the country's defence establishments. Respondent 1 has entered into technical collaboration with a French firm, TCSF. Respondent 2 is the component authority appointed under the Radiation Protection Rules, 1971 framed under the Atomic Energy Act, 1962 by the Central Government. This writ application is confined to employees working in the transmitter assembly room of the factory. The petitioners have alleged that in course of their employment those of the employees who are made to work in the transmitter assembly room are exposed to the baneful effects of X-ray radiation. The ill-effects of such exposure has been detailed in the writ petition. They have alleged that respondent 1 has not been following the rules and no care and attention has been devoted to the safety and protection of the employees in such a sensitive place. They have further asked for a declaration that the failure of the respondents to provide adequate protection and adopt safety procedure has resulted in a violation of the transmitter assembly workers' fundamental rights and they have become entitled to compensation. Several other reliefs were prayed for. This Court on May 5, 1986 directed medical examination of 68 workers who complained of exposure to X-ray radiation by the Indian Council of Medical Research and when it was reported that there was no facility for appropriate examination at that place, on July 21, 1986, the court directed those 68 workers to be examined in convenient batches by the Bhaba Atomic Research Centre (hereinafter referred to as 'BARC'). The said BARC also carried on a survey relating to radiological protection within respondent 1's installation and sent an interim report and later a detailed report has also been received. The BARC has also made certain suggestions for future protection of the workers from exposure to radiation.

2. The Associate Director of Radiological Group in the BARC has filed an affidavit. Similarly respondent 1 through Wg. Comd. K. S. Randhawa has also filed an affidavit. The affidavit of the Associate Director has been confirmed to the effect of exposure and an attempt has been made to provide certain scientific data related thereto. In the affidavit of Wg. Comd. K. S. Randhawa, steps taken and safety measures adopted at the factory of respondent 1 have been indicated. The Associate Director filed a second affidavit along with the final report. The details of medical examination have also been placed on record. Respondent 1 has filed written submission which have been taken note of at the hearing of this writ petition.

3. The result of medical examination carried out shows that there is no clear proof of any injury or ill-effect on the workers following the alleged exposure. It is, however, not disputed on either side that the evil-effects take time to manifest and it is possible that even though no adverse effect is noticed now, on account of the exposure already suffered, the consequences may appear later. Mr. Nariman, appearing for the employer - respondent 1 - does not disown the responsibility to compensate the workmen in the event of proof of ill-effects directly following out of employment at a future date. The only way in which this aspect of the demand can be dealt with is to say that as and when any related ill-effect is manifested, the aggrieved workman or workmen would be entitled to lodge claim for compensation but as the matter stands no order for compensation at this stage is warranted. Safety rules have been framed and respondent 1 has undertaken before us that the same would be strictly complied with. Now that a competent officer has been appointed and is available at the spot, he will ensure that appropriate care and protective steps are taken.

4. The respondent-company has a system of film badges for measuring radiation absorbed during a month and the data which is collected on the basis of the aforesaid film badges would be regularly sent to the BARC for evaluation on monthly basis. The result of such analysis shall be duly publicised and would also be communicated to the petitioner-Union at reasonable intervals.

5. The respondent-company has installed instantaneous measuring instrument near the transmitter to give immediate indication of radiation levels. In the event of fortuitous failure of the protective lead-shields, the transmitter has the primary lead-shield and also a secondary lead-shield. All care will be taken to keep these in use.

6. The electrical interlocking device will ensure that the transmitter is not commissioned to service without primary lead-shield being in position.

7. Equally apprehensive of X-ray exposure are the officers who work in the sensitive areas of the factory. We direct the Union of India, respondent 3, to carry biannual checks by competent authority for strict compliance of safety devices.

8. In addition to all these, we are of the view that those of the officers and workers of the company who work within the sensitive portion of the factory should be covered by appropriate insurance over and above general insurance, if any, to which as workmen at large they may have become entitled. Every workman should be insured for a sum of Rs. One lakh and officers should be insured to the tune of Rs. Two lakhs. It would be open to the respondent to get into group insurance arrangements with the insurer in case it is possible, otherwise individual insurance policies will have to be taken. The cost for these insurance policies would be borne by respondent 1 as a related and necessary expenditure of business. The benefit of insurance cover should be made available in terms of this direction by June 30, 1987. There will be no order for costs.

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