

Union of India and Others

Vs

North Telumer Colliary and Others

Civil Appeal Nos. 1930-33 of 1989

(CJI R. S. Pathak, N. D. Ojha, Kuldip Singh JJ)

19.07.1989

JUDGMENT

KULDIP SINGH, J. –

1. The coal resources in the country have been brought under State ownership and control by the Coking Coal Mines (Nationalisation) Act, 1972 (hereinafter called 'the Coking Act') and the Coal Mines (Nationalisation) Act, 1973 (hereinafter called 'the Coal Act'). These Acts completely divest the ownership rights in the mines from the owners to the Central Government. The Acts provide for payment of specified amount to each of the owners in lieu of takeover. Out of the said amount the claims of the creditors of the owner and other liabilities against him are to be satisfied and the balance, if any, is to be paid to the owner. The Acts further provide for accrual of interest on the payable amount for the procedural period. Section 18 (5) of the Coal Act and Section 21(5) of the Coking Act provide that the interest accruing on the amount shall enure to the benefit of the owners of coal mines.
2. The short question for consideration in these appeals is whether the amount of interest which accrues under the Act is to be paid in its entirety to the owner or the same is also available along with the principal amount for disbursement to the claimants of the owner.
3. The provisions of the Coking Act and the Coal Act are identical. Both the Acts were enacted with the same object and purport, one relating to the coking coal mines and other to the coal mines.
4. The learned counsel at the hearing referred to the Coal Act. We may briefly notice the scheme of the said Act. Section 2 gives definitions. Section 3 transfers the rights, title and interest of owners in relation to the coal mines and vests the same in the Central Government. Section 5 empowers the Central Government to direct vesting of such rights in a government company. Section 6 makes the vesting of all properties in the Central Government free from mortgage, charge, lien or any other incumbrance. Section 7 provides that the Central Government or government company shall not be liable for liabilities incurred by the owners prior to the takeover. Under Section 8 the owner of every coal mine shall be given by the Central Government in cash and in the manner specified under the Act the amount mentioned in the Schedule to the Act. Section 9(2) provides for payment of simple interest at the rate of 4 per cent from the date on which the Coal Act received the assent of the President up to the date when the amount is paid by the Central Government to the Commissioner. Section 17 provides for appointment of Commissioner of Payments by the Central Government for the purpose of disbursing the amounts payable to the owner of each coal mine. Section 18(1) lays down that the Central Government shall within 30 days from the specified date pay in cash to the Commissioner for payment to the owner of of a coal mine, an amount specified in the Schedule and

also other amount payable to the owner under Section 9. Section 18(2) provides further amount due to the owner in lieu of management of the coal mine by the Central Government and simple interest at the rate of 4 per cent on such amount. Under Section 18 (3) a deposit account is to be opened by the Central Government in favour of the Commissioner in the Public Account of India and every amount paid under the Act to the Commissioner has to be deposited by him to the credit of the said deposit which is to be operated by the Commissioner. Section 18(4) directs the Commissioner to maintain separate records in respect of each coal mine in relation to which payments have been made to him under the Act. Section 18(5) provides that interest accruing on the amounts standing to the credit of the deposit account shall enure to the benefit of the owners of coal mines and shall also be payable to the Commissioner in addition to the sum referred to in sub-section (1). Under Section 20 every person having a claim against the owner of a coal mine has to prefer such claim before the Commissioner within thirty days from the specified date. Sections 21 and 22 give first priority to the claims to arrears of wages, provident fund, pension fund, gratuity fund or any other fund established for the welfare of the persons employed by the owner of a coal mine. Next come the secured creditors of the owners. Under Section 23 the Commissioner adjudicates the claims and can accept or reject the same. Section 24-A provides that where any amount is payable in respect of a claim admitted under the Act, the interest payable on such amount for any period shall be at such rate not exceeding the rate of interest accruing on any amount deposited by the Commissioner under Section 18. Finally under Section 26 if out of the moneys paid to the Commissioner in relation to a coal mine, there is a balance left after meeting the liabilities of all the secured and unsecured creditors, he shall disburse such balance to the owner of such coal mine.

5. Relevant provisions of the Coal Act are reproduced hereinafter :

3. Acquisition of rights of owners in respect of coal mines. - (1) On the appointed day, the right, title and interest of the owners in relation to the coal mines specified in the Schedule shall stand transferred to, and shall vest absolutely in, the Central Government free from all incumbrances.

8. Payment of amount to owners of coal mines. - (1) The owner of every coal mine or group of coal mines specified in the second column of the Schedule, shall be given by the Central Government, in cash and in the manner specified in Chapter VI, for the vesting in it, under Section 3, of the right, title and interest of the amount specified against it in the corresponding entry in the fifth column of the Schedule.

17. Commissioner of Payments to be appointed. - (1) For the purpose of disbursing the amount payable to the owner of each coal mine or group of coal mines, the Central Government shall appoint such person as it may think fit to be the Commissioner of Payments.

18. Payment by the Central Government to the Commissioner. - (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner for payment to the owner of a coal mine, an amount equal to the amount specified against the coal mine in the Schedule and shall also pay to the Commissioner such sums as may be due to the owner of a coal mine under Section 9.

(2) In addition to the sum referred to in sub-section (1), the Central Government shall pay, in cash, to the Commissioner, such amount as may become due to the owner of a coal mine in relation to the period during which the management of the coal mine

remains vested in the Central Government, and simple interest at the rate of 4 per cent per annum on such on such amount for the period commencing on the 1st day of July, 1975 and ending on the date of payment of such amount to the Commissioner.

(3) A deposit account shall be opened by the Central Government, in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account in the Public Account of India, and thereafter the said deposit account shall be operated by the Commissioner.

(4) Separate records shall be maintained by the Commissioner in respect of each coal mine in relation to which payments have been made to him under this Act.

Amended (5) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (3) shall enure to the benefit of the owners of coal mines and shall also be payable to the Commissioner in addition to the sum referred to in sub-section (1).

Unamended (5) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (3) shall enure to the benefit of the owners of the coal mines.

(6) Reference in this section to the owner of a coal mine shall, in relation to a group of coal mines specified in the Schedule, be construed as references to the owner of that group of coal mines.

24. Disbursement of money by the Commissioner to claimants. - Where, after meeting the claims admitted by him, of secured creditors, and unsecured creditors having priority under sub-section (2) of Section 22, the total amount of claims of other unsecured creditors admitted by the Commissioner, does not exceed the total amount of the money credited to the account of a coal mine, every such admitted claim shall be paid in full and the balance, if any, shall be paid to the owner, but where such amount is insufficient to meet in full the total amount of the admitted claims, all such claims shall abate in equal proportions and be paid accordingly.

24-A. Interest on admitted claims. - Notwithstanding any award, decree or order of any court, tribunal or other authority, passed before the appointed day, in relation to any coal mine, where any amount is payable in respect of a claim admitted under this Act, the interest payable on such amount for any period after the appointed day shall be at such rate not exceeding the rate of interest accruing on any amount deposited by the Commissioner under Section 18.

26. Disbursement of amounts to the owners of coal mines - (1) If out of the moneys paid to him in relation to a coal mine or group of coal mines specified in the second column of the Schedule, there is a balance left after meeting the liabilities of all the secured and unsecured creditors, the Commissioner shall disburse such balance to the owner of such coal mine or group of coal mines.

6. The scheme of the Coal Act and the bare reading of its provisions make it clear that the Commissioner has to adjudicate the claims of creditors of the mine owners in accordance with the

priorities. The claims, accepted by the Commissioner, are to be satisfied out of the amount payable to the mine owners and the balance left after meeting the claims of all the secured and unsecured creditors, is to be paid to the owners of the coal mines.

7. The High Court has accepted the contention of the mine owners and has held that the interest accrued under the Coal Act cannot be made available to the Commissioner for meeting the claims of the creditors of the mine owner or to satisfy their other liabilities. According to the High Court whole of the interest amount is to be exclusively given to the mine owners and the claims and liabilities are to be satisfied only out of the principal amount payable to the mine owners under the Coal Act. To support these conclusion the High Court has given three reasons which we may presently examine.

8. The High Court's conclusions are primarily based on the interpretation of Section 18(5) of the Coal Act. The High Court has quoted the meaning of words "enter" and "benefit" from various dictionaries. No dictionary or any outside assistance is needed to understand the meaning of these simple words in the context and scheme of the Coal Act. The interest has to enure to the benefit of the owners of the coal mines. The claims before the Commissioner under the Coal Act are from the creditors of the owners and the liabilities sought to be discharged are also of the owners of the coal mines. When the debts are paid the liabilities discharged, it is only the owners of coal mines who are benefited. Taking away the interest amount by the owners without discharging their debts and liabilities would be unreasonable. They have only to adopt delaying tactics to postpone the disbursement of claims and consequently earn more interest. Due to such delay the owner would get huge amount of interest though ultimately he may not get a penny out of principal amount on the final settlement of claims. It would amount to conferring unjust benefit on the owners which can never be the intention of the Parliament. We do not agree with the interpretation given by the High Court and hold that the interest accruing under the Coal Act is the money paid to the Commissioner in relation to the coal mine and the same has to be utilised by the Commissioner in meeting the claims of the creditors and discharging other liabilities in accordance with the provisions of the Coal Act.

9. The High Court noticed that apart from providing priorities for claims the Parliament has also indicated the accounts from which such claims are to be satisfied. According to the High Court since no mention has been made therein with regard to the recovery of any amount of claim out of the interest the same cannot be used for that purpose and has to be exclusively paid to the owners. We do not agree with the reasoning. Under Section 18(5) of the Coal Act the interest accruing on the amount standing to the credit of the deposit account shall also be payable to the Commissioner in addition to the sum referred to in sub-section (1) of Section 18. Section 26 further provides that out of the moneys paid to the Commissioner in relation to the coal mine if there is a balance left after meeting the liabilities of all the secured and unsecured creditors, such balance shall be disbursed to the owner of the coal mine. It cannot be disputed that the interest paid to the Commissioner under Section 18(5) is money paid to him in relation to a coal mine and as such it has to be utilised in meeting the claims of the creditors of the mine owners and their other liabilities. Even otherwise interest amount in the present context has no separate entity. As the lamb belongs to the owner of the sheep, the interest goes with the principal. The interest accrued under the Coal Act is, thus, part of the kitty out of which the claims and liabilities are to be met.

10. The High Court has further held that under Section 26 of the Coal Act moneys paid to the Commissioner in relation to a coal mine do not include the money accrued by way of interest. There is no basis for this interpretation. The plain reading of Section 26 read with Section 18(5) of the

Coal Act makes it clear that moneys paid to the Commissioner in relation to a coal mine are to be used for satisfying the debts and liabilities. Interest amount accrued under the Coal Act is undoubtedly money in relation to coal mine and as such it squarely comes within the ambit of Section 26 of the Coal Act.

11. The amended Section 18(5) of the Coal Act which escaped the notice of the High Court provides that the amount of interest accruing on the amounts standing to the credit of the deposit account is also payable to the Commissioner. Section 22(3) of the Coal Act makes the assets, in the hands of Commissioner, available for satisfying the debts in order of priorities. The assets of the erstwhile owner lying in the hands of the Commissioner of Payments would include the interest which has been paid to the Commissioner under Section 18(5). Similarly Section 24 of the Coal Act says that unsecured creditors will be paid out of the money credited to the account of coal mine. Moneys credited to the account of coal mine also include interest. It is thus clear from the scheme and plain reading of various provisions of the clear from the scheme and plain reading of various provisions of the Coal Act that the interest amount has to be made available to the Commissioner to meet the debts and liabilities.

12. We may refer to Section 24-A of the Coal Act which fixes the maximum interest payable to the successful claimants. It is provided that interest shall be paid at such rate not exceeding the rate of interest accruing on any amount deposited by the Commissioner under Section 18. Had the Parliament intended to give interest to the owners, there would have been no necessity for fixing the maximum limit of interest payable to the claiming with reference to the rate of interest accruing to the scheduled amount.

13. The two Acts being identical whatever we have said about the Coal Act is equally applicable to the Coking Act.

14. We, therefore, see no legal or equitable grounds to sustain the judgment of the High Court. The appeals are accepted, judgment of the High Court is set aside and the writ petitions of the respondents filed in the High Court are dismissed. There shall be no order as to costs.

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