

Paradeep Port Trust and Another

Vs

Paradeep Port and Dock Mazdoor Union and Others

Civil Appeal No. 1442 of 1990

(K. Jagannatha Shetty, R. M. Sahai JJ)

15.03.1990

JUDGMENT

K. JAGANNATHA SHETTY, J. -

1. Special leave granted.

2. On September 10, 1985, the Chief Minister of Orissa convened a meeting of the President of the Mazdoor Union, Chairman Paradeep Port Trust, Regional Labour Commissioner and other high officials of the State Government in which the following consensus was reached :

"Regarding the points as (2) and (6) in Para 2 above, Chief Minister indicated that the question of listing all the unlisted workers is linked with the decision regarding the optimum work force. A decision on the datum is a pre-requisite before a decision is taken on the optimum work force. It was found that at one stage of C & F workers and the C & E agents had both agreed to refer the question of fixing a datum to the arbitration by CLC but the CLC had expressed his inability to take up the arbitration on this issue on a communication issued to the Union. It was decided that the Chairman, PPT, would take up the matter with the CLC and request him to take up arbitration on this point expeditiously so that the question of datum is settled once for all. Therefore, a committee may be appointed to go into the question of fixing the unlisted workers finalised."

3. Paradeep Port and Dock Mazdoor Union filed Writ Petition No. O.J.C. 2539 of 1985 in the High Court of Orissa seeking a direction to the Chairman of the Port Trust to implement the aforesaid decision. During the course of hearing, the parties seemed to have agreed that the dispute in question could be referred to a committee under the Chairmanship of the Paradeep Port Trust Chairman. On September 19, 1986, the High Court disposed of the writ petition with the following directions :

"(i) A Committee under the Chairmanship of the Chairman, Paradeep Port Trust shall go into the question of settling the datum, ascertaining the optimum work force and determining the number of unlisted workers to be brought to the listed category. It would be open to the Chairman to take assistance of any other officer of the Port Trust if he feels the necessity for it."

4. Earlier to that case, there was another Writ Petition No. O.J.C. 2276 of 1985 before the High Court filed by the workers included in the standby list of the registered dock workers. The workers

therein sought a direction to the Port Trust for enlisting them in the main list of the dock workers and not to include any other worker from outside or unlisted clearing and forwarding Cargo Handling Workers until the standby list is completely exhausted. The Paradeep Port Trust had conceded that claim and the court accordingly directed that the Port Trust shall not enlist any other workers in the main list until the standby list in question is exhausted. The workers in that case had another grievance. They complained that no sufficient work was given to them and the court on that grievance directed that preference should be given for allotting work to the workers in the standby list if there is sufficient work beyond the capacity of the regular workers in the main list. This order was made by the court on May 7, 1987 and it has not been appealed. The present appeal has been preferred by the Paradeep Port Trust against the order dated December 19, 1986 by which the High Court disposed of the Writ Petition No. O.J.C. 2639 of 1985.

5. In view of the controversy raised in the appeal we have permitted the other two unions i.e. Utkal Port and Dock Workers' Union representing the standby workmen and Paradeep Port Trust Workers' Union representing those working at the shore to ship and at clearing and forwarding, as parties to this appeal.

6. There is no dispute that "datum" shall be fixed for the purpose of listing the unlisted workers or for what is termed as decasualisation of the workers. The dispute however, seems to be about the category of workers to be considered for enlisting and the composition of the committee to determine the question. The committee constituted by the High Court, counsel for the appellant contends, may not be appropriate or competent to determine the question, since it involves highly complicated factors necessitating technical appraisal of diverse types of cargo handling.

7. Reference was also made to the report of the Abraham Committee with regard to the same problem. It may be stated that on May 8, 1984, the Government of India constituted a committee to examine the demand for decasualisation of cargo handling workers in Paradeep, Tuticorin, New Mangalore and Haldia Ports and also to examine the demands for decasualisation of additional categories of dock workers at other major ports. Mr. P. M. Abraham was the Chairman of the committee which after a detailed study submitted its report on September 15, 1984. It is stated that the report has been accepted by the Government of India in March 1989. Chapter XIII of the report contains recommendations of the Committee and paras 13.2 to 13.8 deals specifically with the problem of Paradeep Port and the need to rationalise the strength of listed workers. The Committee has, inter alia, observed that the optimum strength of workers was never assessed by the Paradeep Port Trust. For sound working of an organisation, it is better to have an optimum and contented work force rather than a large and discontented labour force with less benefits. Keeping in view these considerations, the Committee has recommended that before extending the full decasualisation benefits it will be necessary that an assessment is first undertaken by an expert independent agency of optimum requirement of cargo handling workers on the basis of the present and projected level of traffic and the technology of port operation.

8. It seems to us that these recommendations are comprehensive and cover almost all the problems of the Paradeep Port unlike the decision taken in the meeting convened by the Chief Minister of Orissa. It is, therefore, proper that the said recommendations are implemented and indeed all the parties also readily agreed on this point. It is however, seen that for implementing the said recommendations, the Committee constituted by the High Court appears to be inadequate if not ill-equipped and it is better to have a High Power Committee with technical members in it.

9. It is needless to state that the benefit of decasualisation of the workers should be in conformity

with the Paradeep Cargo Handling (Regulations of Employment) Scheme, 1979.

10. We, therefore, constitute a High Power Committee with Justice H. R. Khanna, retired Judge of the Supreme Court as the Chairman. The Committee shall have two other members to be nominated by the Government of India; (i) A representative of the Ministry of Surface and Transport, and (ii) an expert in Port Management. The Government of India shall nominate the two members within two weeks from today.

11. This Committee will decide the question of listing the unlisted workers in the light of the recommendations under paras 13. 2 to 13.8 of the Abraham Committee Report and in accordance with the Paradeep Cargo Handling (Regulation of Employment) Scheme, 1979. The Committee will afford reasonable opportunity to representatives of the aforesaid workers' unions and also the Port Trust. The Committees may also work out a scheme to mitigate the unemployment of surplus workers.

12. The Committee will have the liberty to have its sittings at Paradeep and/or at New Delhi. It may submit an interim report. The Port Trust must provide all facilities for the deliberations of the Committee and meet all expenses and fees.

13. The reasonable fees of the respective counsel of the aforesaid three workers' unions, as certified by the Chairman of the Committee shall also be paid by the Port Trust. We make this direction despite the objection from counsel for Union of India, so that the interests of the workers may not be prejudiced or impaired for want of proper representation before the Committee. The workers who are the weaker sections should not be handicapped by deficient or ineffective assistance on their legitimate claim for decasualisation.

14. The Port Trust shall implement the decision of the Committee within two months from the date of submitting the report thereof.

15. The appeal is disposed of accordingly without an order as to costs.

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