SUPREME COURT OF INDIA

M/S National Textile Corporation (APKKM) Limited.

Vs.

Sree Yellamma Cotton, Woollen And Silk Mills Staff Association

C.A.No.5555 of 1999

(S.V.Patil and S.R.Babu JJ.)

18.01.2001

JUDGMENT

Rajendra Babu, J.

1. The employees of the appellant-Corporation fall into three categories and they are (i) technical persons and Supervisors, (ii) ministerial staff and (iii) workmen. As regards the second category of employees a settlement was entered into on 3.9.1979 which was to be effective for a period of five years from 1.10.78. The said settlement also provided that the ministerial staff shall not make any claim or demand for the revision of any of the terms and conditions covered by the settlement or make any demand involving additional financial burden on the mills subject however to clause 5 of the settlement and a provision was also made for dearness allowance which would be in force for a period of three years from 1.10.1978. With regard to third category of employees the appellants entered into two settlements as a result of which workers agreed to work on seven-day-a-week- working system from 16.11.1980 thereby the weekly holiday stood changed and in addition certain increases in emoluments have been provided to them. The second category of employees-ministerial staff raised an industrial dispute which was referred by the Government of Karnataka on the following two questions:

> "(1) whether the appellant is justified in changing the weekly holidays of the staff members with effect from 16.11.1980?
>
> (2) Are the employees in the second category justified in demanding 4 per cent increase in emoluments and payment of Rs. 52.20 per staff member per month at par with the mill workers?"

2. The Labour Court answered both the questions in the affirmative and made an award that the increased emoluments to the second category of workmen will become payable from 1.10.1983. The correctness of the said award was challenged in a writ petition filed by the appellant. The learned Single Judge of the High Court, while deciding the writ petition held that the settlement dated 3.9.1979 which became effective from 1.10.78 having been acted

upon and during the subsistence of the settlement, the reference could not have been made and, moreover, the parity claimed in the emoluments to be paid to the workmen and the ministerial staff forming separate categories cannot be drawn and, therefore, enhancing the remuneration from 1.10.1983 is untenable and allowed the writ petition by setting aside the award made by the Labour Court and rejecting the reference made by the Government. On an appeal, the Division Bench of the High Court reversed the decision of the learned Single Judge and restored the award made by the Labour Court. Hence this appeal.

3. The view of the learned Single Judge is commended for acceptance by the learned counsel for the appellants. Undoubtedly, the legal position is that during the subsistence of a settlement it is not open to any of the parties to raise a dispute. A settlement once entered into between the parties shall be operative until the same is terminated as provided in Section 19 of the Industrial Disputes Act, 1947 [hereinafter referred to as the Act]. The object of such a provision is to ensure that once a settlement is entered into then industrial peace prevails according cordialities between the parties during the period agreed upon. The same position should continue by extension of the settlement by operation of law. There is an option given to either party to terminate the settlement and such a course having not been adopted in the present case the dispute could not have been raised by the parties. But in an appropriate case Government may make a reference under the Act on the ground that since the time settlement was entered into there has been material change in the circumstances. In the present case, the Labour Court noticed such a situation arising as a result of the second settlement entered into with the workmen that is the third category of employees. In the original settlement between the parties there has been no provision of working the mills all seven days in a week nor was any provision made in regard higher emolument applicable to either class of workmen. The Labour Court noticed that a gardner who had been categorised as a member of the staff coming under category two could get less emoluments than his helper who comes under category three and, therefore, in those special circumstances in view of the change in the working conditions the Labour Court gave relief to the employees coming under second category but from a date on the expiry of the agreed settlement entered into by the parties, namely, 1.10.1983. Section 19 of the Act limits the variation of settlement but if there has been any material change in the circumstances available in the establishment of an employer certainly such a situation can not be ignored altogether to state that settlement alone should be adhered to whatever be the situation. If such a settlement cannot be worked out in a congenial atmosphere between the workmen and the employer it will be difficult to maintain industrial peace and these aspects are to be borne in mind by the Labour Court. We do not think that such considerations would be altogether irrelevant in giving the relief as sought for by the respondents and to deny the same on the short ground of reference not being maintainable.

4. Secondly, on the question whether there should be parity in payment between the employees working in the establishment in different categories, ultimately what decides the matter is a sense of fairness in providing different scales of pay. If, as stated earlier, a gardner was to get less emoluments by treating him under category two, his helper were to receive higher emoluments in view of the second settlement entered into with category three to which Helper belongs, the whole system smacks of arbitrariness and unfair treatment of

different categories of employees. What has to be seen ultimately is whether the emoluments that are paid to the second category of employees become unfair in view of increase in the emoluments given to other classes of employees. By bearing in mind the increased work load and the nature of employment the Labour Court took the view that similar increase should be there in the emoluments. We do not think, such reasoning is unjustifiable. Therefore, in the special features of this case the learned Single Judge of the High Court ought not to have interfered with the order made by the Labour Court. Therefore, the Division Bench was justified in setting aside the order made by the learned Single Judge for the reasons stated by us. We find good reasons to maintain the award made by the Labour Court in reversal of the decision of the learned Single Judge in the writ petition.

5. For the aforesaid reasons, this appeal stands dismissed. However, in the circumstances of the case there shall be no order as to costs.