

SUPREME COURT OF INDIA

Workmen Represented By The General Secretary

Vs.

Manager, Oriental Fire and General Insurance Co. Ltd.

C.A.No.2749 of 1982

(G.B. Pattanaik, S. Rajendra Babu, D.P.Mohapatra,,Doraiswamy Raju and Shivaraj V. Patil JJ.)

19.03.2001

JUDGMENT

RAJENDRA BABU, J.

1. These three appeals have been presented by special leave by the General Secretary of the General Insurance Employees Union, Madras. In Civil Appeal No. 2749/1982, cases of 12 workmen and in Civil Appeal No. 2750/1982 cases of 14 workmen have been referred to the Industrial Tribunal (hereinafter referred to the Tribunal), on dispute being raised on the question as to whether the action of the management of the Oriental Fire and General Insurance Company Ltd., Madras in not re-categorising the workmen mentioned in the course of reference is justified ? If not, to what reliefs the concerned workmen are entitled ? In Civil Appeal No. 2751/1982 question referred to the Tribunal is slightly different, that is, whether the action of the management in re-categorising Shri C.R. Mane, Assistant, as Record-keeper is justified ? If not, to what relief the concerned workman is entitled and from which date ?

2. In all these cases the Presiding Officer of the Tribunal to whom the reference was made gave an award stating that the scheme has been framed for rationalising or revising the pay-scales and other terms and conditions of service of the officers and other employees in the General Insurance Company which has been published by a notification issued under Section 16(6) of the Central Act 57 of 1972 and, therefore, if the employees or the management feel that the existing provisions in the scheme relating to categorisation are arbitrary or in practice work hardship to the employees it is for the Union to take up this issue and persuade the Central Government which will be entitled under Section 16(6), by notification, to modify the same and by no stretch of imagination the Tribunal constituted under the Industrial Disputes Act can declare the action of the management unjustified and reject the scheme. In case of C.R. Mane, the Tribunal noticed that if the concerned workman had any grievance he ought to have made an appeal to the Board of the Company to which he belonged and such representation had been made to the Review Committee and the Review Committee gave its finding and, therefore, the Tribunal took the view that the finding of the Review Committee

that the concerned workman was properly categorised as Record Clerk appears to be justified and calls for no interference and it had no jurisdiction to go into the merits of the case.

3. The scope of categorisation under different schemes will be with reference to different classes of workmen. Whether any particular workman has to be categorised in one category or another or categorisation of such workman in one group or another or non-categorisation of such workman in one group or another gives rise to a dispute for reference and that was exactly the dispute before the Tribunal. That dispute has to be resolved with reference to the principles stated in the scheme and apply the scheme with reference to each one of the workmen and find out whether the categorisation of that workman is correct or not. That exercise has not been done by the Tribunal, but it has simply gone on to proceed that placing of one or other workman in one category or another is itself a part of the scheme and, therefore, the Tribunal cannot examine the same. This approach of Tribunal is not justified at all. Therefore, we set aside the awards in each of these cases and remit the matter to the Tribunal for fresh consideration in accordance with law and in the light of this order.

4. The appeals are allowed accordingly with costs. Advocates fee is fixed at Rs. 2500/- in each of these three cases.