**SUPREME COURT OF INDIA**

Union of India

Vs.

Shree Shankar Textiles Ex-employees Union

C.A.No.5495 of 2000

(Dr. Arijit Pasayat and D.K. Jain JJ.)

14.09.2007

**JUDGMENT**

**Dr. ARIJIT PASAYAT, J.**

1. Challenge in this appeal is to the judgment of the Karnataka High Court dismissing the Writ Appeal filed by the appellants.

2. Background facts in a nutshell are as follows: Respondent No.1-Union filed a writ petition before the Karnataka High Court for a declaration that the conditions imposed under the Textile Workers Rehabilitation Fund Scheme (in short the 'TWRFS') to the effect that the mill should have been closed under Section 25-O of the Industrial Disputes Act, 1947 (in short the 'Act') or the official liquidators should have been appointed offend Articles 14 and 16 of the Constitution of India, 1950 (in short the 'Constitution') and for directing the appellants by a writ of mandamus to extend the benefits of TWRFS to the members of the Union with all consequential reliefs including monetary benefits.

3. The writ petition was allowed and it was held that the afore-noted conditions were unconstitutional, discriminatory and therefore, were arbitrary.

4. The writ appeal was also dismissed on the ground that the order of the learned Single Judge did not suffer from any infirmity.

5. In support of the appeal, learned counsel for the appellants submitted that both the learned Single Judge and the Division Bench lost sight of the fact that four conditions were to be satisfied in order to attract eligibility under the Scheme. Undisputedly, two of the conditions were not fulfilled by the members of the Union. Additionally, it was submitted that no reason has been indicated as to how the stipulations regarding closure in terms of Section 25-O of the Act and/or the appointment of the official liquidators were constitutionally unsustainable.

6. Learned counsel for the respondents on the other hand supported the order.

7. As a part of the Statement on Textile Policy 1985 in Chapter I, it was provided as follows:

1. The textile industry has a unique place in the economy of our country. Its contribution to industrial production, employment and export earnings is very significant. This industry provides one of the basic necessities of life. The employment provided by it is a source of livelihood for millions of people, most of whom live in rural and remote area. Its exports contribute a substantial part of our total foreign exchange earnings. The healthy development and rapid growth of this industry is therefore of vital importance.

2. In the past few years, the development of the textile industry has been guided by the policy framework announced in March 1981. While considerable progress has since been achieved in several areas under this policy framework, the objectives of the textile policy outlined in the Textile Policy statement have not been fully achieved. Thus the per capita availability for and the per capita consumption of cloth, of our growing population still remain at a very low level. There is evidence of an increase in the incidence of sickness, particularly in the organised mill sector, reflected in a large number of closed units. There is a large unsatisfied demand for durable synthetic and blended fabric at cheaper prices which is not being met by indigenous production. The full export potential of textile products remains to be realised.

3. The textile industry has experienced fluctuations in its fortunes in the past also. However an analysis of the current difficulties faced by the industry reveals that the present crises of the industry is neither cyclical nor temporary, but suggests deeper structural weaknesses, therefore, the Government have reviewed the present textile policy and after careful consideration have formulated this new policy for the restructuring of the textile industry in India with a longer term perspective.

8. The present dispute relates to the legality of the stipulations. The eligibility criteria of four conditions as spelt out for payment of relief under the TWRFS dated 1.5.1991, according to the appellants, are as follows:

(i) The Unit must be a medium scale.

(ii) There must be a complete grinding halt. (iii) There must be a closure of unit in terms of Section 25-O of the Act.

(iv) An illegal strike as defined under the Act leading to closure of the mill either under Section 25-O of the Act or by an order of the High Court upon which the official liquidator is appointed makes the scheme inapplicable.

9. It is pointed out that the conditions are cumulative and in the instant case conditions (ii) and (iii) are not fulfilled. The closure was essentially in terms of conciliation under Section 12(3) of the Act and the production had come to grinding halt before 5.6.1985. In the writ application there was no challenge to the policy on the ground that conditions (ii) and (iii) suffered from irrationality and discrimination.

10. The High Court has not indicated any reason as to why it was held that the conditions stipulated relating to Section 25- O were in any way violative of Articles 14 and 16 of the Constitution.

11. The policy decision should not have been held to be illegal without even indicating reasons.

12. It is pointed out that a Memorandum of Settlement was arrived at on 30.5.1986 and it was clear from all documents placed on record that the mill was closed on 9.10.1984.

13. Learned counsel for the respondent-Union submitted that there was no rational connection between Section 25-O of the Act and as such offended Articles 14 and 16 of the Constitution. A scheme being beneficial in nature is intended to benefit the workers and same was the object of the scheme. It is pointed out that all the workers who are members of the Union are employed in a closed textile mill on the date of its closure. They had been continuously working for five years or so and were earning wages upto Rs.1600/-p.m. They were not on any illegal strike when the closure took place. According to them, though the Memorandum of Settlement was signed on 30.5.1986, it was given effect much later and the relevant date, therefore, should be 30.10.1986. Since the management agreed to pay terminal benefits w.e.f. 30.5.1986 and the same was to be paid within 90 days it cannot be said that the production had found to be a grinding halt before 5.6.1985.

14. We find that the High Court has not indicated any plausible reason for holding that the condition relating to Section 25-O of the Act was illegal, contrary and in any way irrational. As a matter of fact, the policy decision is not likely to have beneficial effect unless the same is sustainable on the touchstone of rationality.

15. As rightly contended by learned counsel for the appellants, it has not been shown by the respondent No.1- Union as to why the conditions impugned were irrational or violative of Articles 14 and 16 of the Constitution. In addition, the documents on record clearly established that the stoppage of the work in mill was w.e.f. 9.10.1984. In fact the mill's letter dated 21.6.1989 addressed to the Regional Office, Coimbatore in the annexed proforma stated that date and time of stoppage was 10.10.1984 and the stoppage was complete. The fact of closure of the Unit was stated in the application and had already been informed to the State Government. It was further stated that the question of spindle utilization for the last six months did not arise as the mill was closed since 10.10.1984. This itself disentitles the employees from the benefits under the scheme. Though the Memorandum of Settlement was signed on 30.5.1986 and the closure under conciliation in terms of Section 12(3) of the Act was w.e.f. 30.5.1986, in the documents it was clearly indicated that the factual date of closure is 9.10.1984 i.e. the date on which the mill had come to a grinding halt. The High Court erred in holding to the contrary. On that ground alone, the orders of the learned Single Judge and Division Bench cannot be maintained.

16. Additionally, in the absence of any reason having been indicated by the learned Single Judge and the Division Bench as to how the conditions stipulated relating to Section 25-O of the Act are arbitrary, the orders are unsustainable. It may be noted here that there was no challenge to parts of conditions stipulated in the scheme. The view of the High Court was that though there was physical closure in 1984, the formal closure would be the date on which the agreement was signed. This view is contrary to the clear terms of the policy mentioning the date on which the mill came to a grinding halt.

17. In view of the above-noted position the appeal deserves to be allowed which we direct. The orders of the learned Single Judge and the Division Bench are set aside. The writ application filed by the respondent No.1 is dismissed. There will be no order as to costs.