SUPREME COURT OF INDIA

M/s Cable Corpn. of India Ltd.

Vs.

Additional Commnr. of Labour

C.A.No.7211 of 2005

(Dr. Arijit Pasayat and P. Sathasivam JJ.)

16.05.2008

JUDGMENT

Dr.Arijit Pasayat, J.

1. Challenge in this appeal is to the judgment of a Division Bench of the Bombay High Court upholding the view of a learned Single Judge that once the review application in terms of Section 25-N(6) of the *Industrial Disputes Act, 1947* (in short the Act')is rejected, the appropriate Government/specified authority is not precluded from making a reference for adjudication under the said provision.

2. Background facts in a nutshell are as follows:

> "The appellant company was established in 1957 for the manufacture of high voltage electric cables and wires. The company has manufacturing units at Borivli and Nasik. In the present case we are concerned with the Company's unit at Borivli. The company made an application in terms of Section 25-N(2) to the Specified Authority on 16.1.2003 to retrench 280 workmen out of 509 workmen working at its Borivli Unit. The Specified Authority, after giving an opportunity of being heard to the company, workmen and other interested persons, including workers unions and after conducting an inquiry, by a reasoned order dated 29.4.2003 partly allowed the application preferred by the company by granting permission to retrench 276 workmen out of 509 workmen on conditions mentioned in the order. The correctness of that decision was put in issue by the workers unions, the respondent Nos. 2 and 3 herein by filing applications under Section 25-N(6) of the Act for review of the decision or to refer the matter for adjudication. By an order dated 9.7.2003 the applications preferred by the Unions were rejected on the ground that such applications could be preferred only by workmen whereas the same have been made by the Unions. Besides, it was observed that no new point was raised in the review proceedings which warranted fresh examination. Accordingly, both the applications for review/reference came to be rejected. The aforesaid order of the Specified Authority was challenged through Writ Petition No. 1947 of 2003 by the 2nd

respondent-union, which came to be partly allowed by the learned Single Judge, vide order dated 2.8.2004. The learned Single Judge held that finding of the Specified Authority that unions had no locus as all the aggrieved workmen were not made parties to the application was contrary to law laid down by this Court in *Mumbai Kamgar Sabha, Bombay v. M/s Abdulbhai Faizullabhai and Ors.*[1]. The learned Single Judge further held that the right of review is possible only on limited grounds and since no new points have been raised by the unions, the prayer for review was rightly rejected. The learned Single Judge relying upon the judgment of a Division Bench of Gujarat High Court in *Rajya General Kamgar Mandal and Ors. v. Vice President, Packart Press Div. Ambalal Sarabhai Enterprises, Baroda and Ors.*[2] further held that merely because review application is rejected, reference cannot be said to be barred under Section 25-N (6) of the Act and, accordingly, directed the specified authority to refer the matter for adjudication to the Industrial Tribunal in accordance with Section 25-N (6) of the Act. Stand of the appellant both before the learned Single Judge and the Division Bench was that once the review application is disposed of, there is no scope for further making a reference in view of the clear language of Section 25-N(6) which provides for the alternatives and does not empower a reference after the review petition is rejected. Both learned Single Judge and the Division Bench held to the contrary."

3. Learned counsel for the appellant submitted that both learned Single Judge and the Division Bench lost sight of the fact that the language of the provision is very clear and the determinative expression used is "or". It is submitted that if the view of the learned Single Judge and the Division Bench is accepted it would mean substitution of the word `and' for `or'.

4. Learned counsel for the respondents on the other hand submitted that the position is no longer res integra and in view of the decision of this Court in *Orissa Textile & Steel Ltd. v. State of Orissa and Ors.*[3], it is submitted; the view of learned Single Judge and the Division Bench does not suffer from any infirmity. The reference is intended as an additional protection. Considering the fact that though the scope for review is limited, which is evident from the fact that unlike other reference a period of 30 days is provided? This indicates the urgency.

5. The factual position need not be referred to in detail in view of the fact that fate of this case depends upon interpretation of Section 25-N(6).

6. Section 25-N(6) of the Act reads as follows:

"The appropriate government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication. Provided that where a reference has been made to a Tribunal under this sub-section, it shall

pass an award within a period of thirty days from the date of such reference." (Underlined for emphasis)

7. In *Excel Wear v. Union of India and Ors.*[4] this Court considered the legality of Section 25-O and 25-R as it stood then. It was held that those provisions were violative of Section 19(1)(g) of the Constitution of India, 1950 (in short the `Constitution'). It was held that steps under Section 25-N as it stood then cannot be read into Section 25-O.

8. In *Workmen of Meenakshi Mills Ltd. And Ors. v. Meenakshi Mills Ltd. And Anr.*[5] the scope and ambit of Section 25-N as it stood then prior to its substitution by *Industrial Disputes (Amendment) Act, 1984* was considered. Section 25-O was recast with effect from 21.8.1984 by Act 46 of 1982. Similarly, changes were brought in Section 25-N by Act 49 of 1984 w.e.f. 18.8.1984. Under Section 25-N(5) finality is given subject to sub-section (6). A plain reading of the provision shows that two options are available i.e. to decide itself or refer to the Tribunal. It cannot be said that the Tribunal is an additional forum for fresh look at the matter.

9. In Orissa Textile and Steel case (supra) the constitutional validity of Section 25-O of the Act was under consideration.

10. Learned counsel for the respondents has placed great reliance on paragraphs 16, 17 and 18 of the judgment to contend that this Court had accepted the interpretation given by the High Court.

11. On a close reading of the judgment it is clear that in the said case the issues presently under consideration did not fall for consideration. What was stated in essence was that the provisions for amended Section 25-O relates to review and reference would be in addition to judicial review under Article 226 or Article 32 of the Constitution. The Court was really considering the question as to whether provisions for review and reference were in addition to judicial review. It never said that they are cumulative and not alternative.

12. The word `or' is normally disjunctive and `and' is normally conjunctive. But at times they are read as vice versa to give effect to the manifest intention of the Legislature as disclosed from the context. As stated by Scrutton, L.J.: "You do sometimes read `or' as `and' in a statute. But you do not do it unless you are obliged because `or' does not generally mean `and' and `and' does not generally mean `or'. And as pointed out by Lord Halsbury the reading of `or' as `and' is not to be resorted to, "unless some other part of the same statute or the clear intention of it required that to be done". But if the literal reading of the words produces an unintelligible or absurd result `and' may be read for `or' and `or' for `and' even though the result of so modifying the words is less favourable to the subject provided that the intention of the Legislature is otherwise quite clear. Conversely if reading of `and' as `or' produces grammatical distortion and makes no sense of the portion following `and', `or' cannot be read in placed `and'. The alternatives joined by `or' need not always be mutually exclusive.

13. In *Fakir Mohd. (dead) by Lrs. V Sita Ram*[6] it was held that the word `or' is normally disjunctive. The use of the word `or' in a statute manifests the legislative intent of the alternatives prescribed under law.

14. Had the Legislature intended that the reference could be made after the Government or the Specified Authority deals with the review power, it would have said so specifically by specific words. It could have provided for a direct reference. The parameters of review are different from a reference.

15. A plain reading of the provision makes the position clear that two courses are open. Power is conferred on the appropriate Government to either on its own motion or on an application made, review its order or refer the matter to the Tribunal. Whether one or the other of the courses could be adopted depends on the fact of each case, the surrounding circumstances and several other relevant factors.

16. Under sub-section (6) of Section 25-N it is open to the appropriate Government or the Specified Authority to review its order granting or refusing to grant permission under sub-section (3).

17. When the words of a statute are clear, plain or unambiguous, i.e. they are reasonably susceptible to only one meaning, Courts are bound to give effect to that meaning irrespective of consequences. [See: *State of Jharkhand v Govind Singh*[7], *Nathi Devi v. Radha Devi Gupta*[8]].

18. In *Sussex Peerage case*[9], at page 143 Tindal C.J. observed as follows: "If the words of the statute are in themselves and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver."

19. When a language is plain and unambiguous and admits of only one meaning no question of construction of a statute arises, for the Act speaks for itself.

20. As observed in Nathi Devi's case (supra) if the words used are capable of one construction, then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. The spirit of the law may well be an elusive and unsafe guide and the supposed spirit can certainly be not given effect to in opposition to the plain language of the sections of the Act.

21. In view of analysis made above, the inevitable result is that the appeal deserves to be allowed which we direct.

[1]*(AIR 1976 SC 1455)* [2]*(1995 II CLR 613)* [3]*(2002 (2) SCC 578)* [4]*(1978 (4) SCC 224)*
[5]*(1992 (3) SCC 336)* [6]*(2002 (1) SCC 741)* [7]*(AIR 2005 SC 294)* [8]*(2005 (2) SCC 271)*
[9]*(1844) 11 CI&F 85*