

PUNJAB AND HARYANA HIGH COURT

Rawalpindi Victory Transport Co

Vs

State of punjab

(Gosain, J.)

30.03.1961

JUDGMENT

Gosain, J.

1. By means of Notification No. 6193-Lab-I--69/4086, dated 25 June 1959, the Punjab Government referred to the labour court at Rohtak some industrial disputes between the management and the workmen of the Rawalpindi Victory Transport Company (Private), Limited. The total number of disputes referred were five, but in the present case we are concerned only with the last one, i.e., 5, which is as follows:

(6) Whether Kapur Chand, booking clerk and Man Bahadur, driver, are entitled to suspension allowance? If so, at what rate?

On 16 July 1959, written statements were filed before the tribunal with regard to the aforesaid disputes and on 7 August 1959, five issues were framed, the fifth of which related to dispute 5. On 4 January 1960, the case came up before the tribunal for evidence and on that date, seventeen out of twenty-one workers of the concern made an application in Writing stating as under:

We, the undersigned, the employees of the Rawalpindi Victory Transport Company (Private), Limited, Ambala City, beg to submit as under:

After the change in the management of the company, we have no dispute whatsoever with the management of the company as the management is quite favourable and sympathetic towards the employees. We are now no more the members of the Ambala district motor transport workers' union (regd.) and the above union has now nothing to do on our behalf and cannot represent us anywhere.

We are quite satisfied with the behaviour and treatment of the new management. District motor transport workers' union (regd.), Ambala, has no right to represent us. We are withdrawing all our previous claims made through district motor transport workers' union (regd.), Ambala.

Yours faithfully, ...

2. This application is actually signed by fifteen workers. The cause of the two workers mentioned in dispute 5 was actually being (sponsored by the district motor transport workers' union (regd.), Ambala, and a large number of workers of the concern in question were members of that union. After the aforesaid application had been presented to the tribunal, the secretary of the union, who was then present, stated that he withdrew disputes 1 to 4 on behalf of the union, but that he wanted dispute 5 to be adjudicated upon. On this, the labour court proceeded to adjudicate the said dispute and ultimately gave an award on 29 January 1960, according to which, Kapur Chand was awarded a sum of RS. 804.26 nP only and Man Bahadur was awarded a sum of Rs. 1,606.02 nP only as gas pension allowance for the period from 6 December 1958 to 29 August 1959. This award was then published in the Government Gazette, vide Notification No. 1220-Lab. (I)-60/5037, dated 4 March 1960. The management! of the Rawalpindi Victory Transport Company (Private), Limited, Ambala City, have filed the present petition in this Court under Article 226 of the Constitution of India and seek to have an appropriate writ, direction or order quashing the said award. The main grounds on which this application proceeds are:

(1) That by virtue of the application made to the tribunal on 4 January 1960, a large number of workers of the concern had withdrawn their support to the disputes and dispute 5 had thereafter become an individual dispute of the two workers, namely, Kapur Chand and Man Bahadur, and had ceased to be an industrial dispute.

(2) That the petition, dated 4 January 1960, amounted to a settlement of all the disputes, referred to the labour court, and should have been treated as such.

The petition is opposed on behalf of Kapur Chand and Man Bahadur, who are respondents 2 and 3 in the petition. Their case is that the industrial dispute did not cease to be BO, merely because a large number of workers, who were previously sponsoring their cause had withdrawn their support from the same. They further pleaded that the application, dated 4 January 1860, copy of which is at annexure E did not amount to settlement. Sri Durga Dass Khanna, who appears for the petitioners, raises precisely the same two contentions, which I have mentioned above. In respect of his first contention, he relied on The "Hindu," Madras v. Working Journalists and Anr. 1959--II L.L.J. 348 and in support of his second contention he relies on Krishnankutty Nair v. Industrial Tribunal, Trivandrum, and Anr. 1957--II L.L.J. 45.

3. After hearing the learned Counsel at great length, I am wholly unable to accept any of these two contentions. The ruling relied upon by Sri Khanna in respect of his first contention has been set aside in Letters Patent Appeal by two learned Judges of the Madras High Court, and the judgment of this Bench is published as Working Journalists of the "Hindu" and Anr. v. The

"Hindu," Madras and Anr. 1961--I L.L.J. 288, With respect, I agree with the view taken by the Letters Patent Bench, and It appears to me that the view taken by the learned single Judge was not, perhaps, in consonance with the provisions of the Industrial Disputes Act. The Government has the right of referring an industrial dispute to the tribunal under Section 10 of the Act and the Bald dispute has then to be adjudicated upon by the tribunal under Section 15 of the Act. By means of the reference, the tribunal was asked to adjudicate upon the Industrial dispute, which existed on the date of reference and the tribunal retained the jurisdiction over the matter till it was finally adjudicated upon. The mere fact that a large number of workers had later chosen to withdraw their support from the said dispute and that the said dispute had thereafter degenerated into an Individual dispute, did not, in my judgment, make any difference. It is observed by the Letters Patent Bench of the Madras High Court in the case cited above that--

The proceeding, which starts upon a reference, continues and shall be deemed to have concluded only when the award becomes enforceable under Section 17A. The Sub section does not contemplate that the proceeding so started can conclude or can be concluded at an earlier time. It seems to follow from Sub-section (2) that the only way by which the proceedings started on a reference can conclude is by making an award. Actually the point of time at which the proceeding concludes is even later, namely, the date on which the award becomes enforceable under Section 17A. Sub-section (3) of Section 10 which states that where an industrial dispute has been referred to a labour court, the appropriate Government may by order prohibit the continuance of any strike or look-out in connexion with such dispute, which may be in existence on the date of the reference, shows again that the industrial dispute which is the basis for reference and adjudication, is the industrial dispute in existence on the date of the reference.

The contention that the labour court ceases to have jurisdiction to proceed further the moment, pending the reference, the industrial dispute loses its character as such (by a substantial section of the concerned workmen withdrawing their support to the individual cause referred for adjudication) would be contrary to and even in conflict with the statutory provisions referred above. Any other interpretation of the statutory provisions referred above will lead to startling results and will hardly be in consonance with the object and policy of the Act, namely, to conserve and promote Industrial peace and welfare. Further It will be subversive to Industrial justice, labour relations and fair play, if the Jurisdiction of the labour court to proceed with the matter referred to It for adjudication, is to depend on the shifting convictions, exigencies and strength of the rival parties to the industrial dispute. Hence It must be held that the jurisdiction of the labour court to proceed with the matter wholly depends on whether the industrial dispute referred to It for adjudication existed or was apprehended on the date of the reference and not on any subsequent date. Having regard to the relevant statutory provisions, it must be held that the jurisdiction of the labour court to proceed with and adjudicate upon an industrial dispute stems

from and is sustained, until It makes an award and the same becomes enforceable, by the reference itself which has been made on the basis of an Industrial dispute existing or apprehended on the date of the reference and that the jurisdiction of the labour court to proceed in the matter is not in any way affected by the fact that subsequent to the date of the reference, the workers or a substantial section of them, who had originally sponsored the cause, had later resiled and withdrawn from it.

4. If I may say so with respect, these observations do, in my opinion, lay down the correct law.

5. The next contention of Sri Khanna depends on the interpretation of the terms of the application, dated 4 January 1960 (copy at annexure E to the petition). After giving my careful consideration to the matter, I do not find that the contents of this application can be interpreted to mean any type of settlement or compromise between the management on the one hand and the workers on the other. What the signatories to this application mean to convey to the tribunal is that they feel satisfied with the new management and do not, therefore, support the Individual dispute raised by Kapur Chand and Man Bahadur. By this application, what they purport to do is that they withdraw their support, which at one time they gave to the two individuals, who raised dispute covered by issue 5. In the Kerala case, referred to above, there was actually a settlement between the new union of workerson the one hand and the management on the other, and there were as many as nine terms of settlement by virtue of which all the disputes were actually settled. I entirely agree with the view taken in that case that a tribunal is not bound to adjudicate the dispute, in case It is brought to Its notice that there has been a compromise or settlement between the parties to the case, because such a compromise or settlement can then form basis of its award. If I had come to the conclusion that the application at annexure E really amounted to a settlement or compromise between the management on the one hand and the workers on the other, I would have certainly followed the view taken by the Kerala High Court: but that case has no relevancy to the present case, because of the conclusion to which I have arrived at, namely, that there was no settlement or compromise, ever arrived at between the management on the one hand and the workers on the other. The workers in this case were represented by the district motor transport workers' union, and any settlement, which could possibly be made, could only be one, which was arrived at by the district motor transport workers' union on the one hand and the management on the other. There is no merit in the petition and the same is accordingly dismissed with costs.