

The Workmen Of Government Silk Weaving ... vs The Presiding Officer, Industrial ... on 23 April, 1973

Equivalent citations: AIR1973SC1423, (1973)ILLJ144SC, (1973)2SCC134, 1973(5)UJ669(SC), AIR 1973 SUPREME COURT 1423, 1973 2 SCC 134, 1973 LAB. I. C. 992, 43 FJR 440, 1973 2 LABLJ 144, 1973 2 SCWR 33

Bench: A.K. Mukherjea, A.N. Grover

JUDGMENT

Vaidialingam, J.

1. These two appeals, by certificate, are directed against the common order dated November 17, 1967, passed by the Mysore High Court dismissing writ petitions Nos. 627 and 650 of 1966.

2. We will briefly refer to the facts leading up to the filing of the Writ Petitions by the appellants. Disputes having arisen between the workmen and the management regarding emoluments, transfer of, termination of services of and suspension of certain workmen, the State Government by its order dated October 23, 1965, referred the same for adjudication to the industrial Tribunal, Bangalore. These disputes were registered by the Tribunal as I.D. Nos. 40 and 47 of 1965. There was rivalry between two groups of persons for the office bearership of the union, which had been registered under the Trade Union Act. Sannaiah represented one group and claimed to be the President of the union; while respondents 3 to 9 herein claimed to be the office bearers of the union. These respondents 3 to 9 represented the rival group. The 4th respondent, Rangaiah, filed a suit, O.S.N. 962 of 1965, on the file of the First Munsiff, Mysore, against Sannaiah and certain others for a declaration that he was the Vice-President of the union and respondents 3 and 5 to 9 were the duly elected office bearers of the union. An application filed by Rangaiah for an interim injunction restraining Sannaiah and his group from functioning as office bearers was dismissed by the Munsiff on January 10, 1966. Even before the Tribunal, where the disputes were being adjudicated, these rival groups claimed to be the office bearers and as such eligible to represent the workmen. Claim statements were filed on behalf of the workmen by these rival groups.

3. In view of the rival claims made by the two groups, the Tribunal directed the leaders of both the groups to adduce evidence in order to ascertain who are the real office bearers competent to represent the workmen under Section 36 of the industrial disputes Act, 1947 (herein after to be referred to as the Act) and posted the cases to February 11, 1966, for evidence. Sannaiah relied on the order of the Munsiff declining to grant an injunction against him as asked for by Rangaiah. On that day, respondents 3 and 4 and others claiming to represent the workmen of the factory and the General Manager of the factory presented before the Tribunal a memorandum of settlement

regarding the various items in dispute between the parties. Both the management and this set of workmen, represented by Basavaiah, prayed for awards being made in I.D. Nos. 40 and 47 of 1965 in terms of the settlement. On that day, the Tribunal recorded evidence regarding the settlement and after hearing arguments closed the proceedings and reserved orders. On February 17, 1966, Sannaiah sent an application to the Tribunal praying that the settlement filed before it by the management and the other group of workmen should be rejected. The Tribunal ignored the objection raised by Sannaiah and passed the awards in both the disputes on March 17, 1966, in terms of the settlement filed before it on February 11, 1966. These two awards were challenged by Sannaiah on the ground that the awards were illegal and that the settlement filed before it on February 11, 1966, was not one entered into according to law. The claim was that there had been no proper representation of the workmen in the settlement proceedings and that respondents 3 to 9 and the management had colluded to bring about this settlement which was detrimental to the interest of the workmen. The High Court rejected all the objections raised by the appellant about the validity of the awards and hence these appeals.

4. Mr. Ramamurthi, learned Counsel for the appellants, has stressed that the settlement purported to have been entered into on February 11, 1966, is invalid as contravening Section 36 of the Act and Rule 59 of the Industrial Disputes (Mysore) Rules, 1957 (hereinafter to be referred to as the Mysore Rules). The counsel urged that there has been no proper representation of the union before the Tribunal, as envisaged under Section 36 of the Act, and the settlements has not been signed in the manner required by Sub-rule (2) of Rule 59 of the Mysore Rules. We express no opinion regarding the contentions of Mr. Ramamurthi based on Section 36 and Rule 59, as these appeals can be disposed of on other grounds.

5. The Tribunal posed two substantial questions for consideration:

- (1) Whether the workmen or a majority of them, through their accredited representatives, have entered into a settlement or compromise with the management;
- and (2) Whether the terms of such settlement are to the manifest advantage of the workmen.

The Tribunal recorded evidence on these aspects and has recorded a finding to the effect that the settlement was between a substantial number of workmen on the one hand and the management of the factory on the other in respect of not only the disputes pending adjudication but also certain other disputes and that it was a genuine settlement. It has also, after a consideration of the evidence, recorded a further finding that the terms of the settlement are very fair and just and that the workmen received considerable benefits under the settlement. In view of these circumstances the Tribunal is of the view that as the main purpose of industrial adjudication is to establish peaceful industrial relationship between employer and employee, the settlement should be acted upon and an award passed in terms thereof. Accordingly it accepted the settlement and passed awards in terms thereof. The High Court exercising jurisdiction under Article 226 accepted the findings of fact recorded by the Tribunal, more especially in view of the fact that Sannaiah was not able to establish that there was no evidence before the Tribunal to come to such a conclusion. The High Court has no doubt expressed the opinion that it would have been better for the Tribunal, when a controversy was

being raised by the two groups, to decide as to which group was entitled to represent the workmen. But the High Court took note of the fact that Sannaiah was present before the Tribunal on February 11, 1966, when the settlement was filed before it and the Tribunal was recording evidence relating to the same. Though he was present, Sannaiah neither made a request to the Tribunal to adjourn the proceedings to make his representation regarding the settlement; nor did he choose to participate in the proceedings and cross-examine the witnesses, who were deposing the nature of the settlement which had been filed before the Tribunal. It was not his case that he was prevented or declined permission by the Tribunal to participate in the proceedings. Even before the High Court, the appellant did not dispute the fact that a substantial majority of workmen had received considerable benefits under the settlement and that they were also enjoying the same. In view of these circumstances, the High Court declined to interfere with the awards. As already mentioned by us, we do not propose to go into the question regarding the scope of Section 36 of the Act or Rule 59 of the Mysore Rules in these appeals. Whatever technical objections the appellant may have to the manner in which the settlement has been arrived at, it is clear, as found by the Tribunal and accepted by the High Court, that the settlement is beneficial to a substantial body of workmen of this factory. There is also the evidence that Sannaiah had an opportunity to contest the settlement on February 11, 1966, when evidence was being recorded by the Tribunal and he was present in Court. He did not choose to participate in the said proceedings.

6. In view of the above circumstances and on the particular facts of this case, we are satisfied that the High Court was justified in declining to interfere with the awards. In the result, the appeals fail and are dismissed. There will be no order as to costs.