The Management Of The Trichinopoly ... vs The National Cotton Textile Mill ... on 13 January, 1960

Equivalent citations: AIR1960SC1003, (1960)IILLJ46SC, AIR 1960 SUPREME COURT 1003, 1960 -61 18 FJR 99 1960 2 LABLJ 46, 1960 2 LABLJ 46

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Bench: P.B. Gajendragadkar, K. Subba Rao, K.C. Das Gupta

JUDGMENT

P.B. Gajendragadkar, J.

1. This appeal by special leave arises from an industrial dispute between the management of the Trichinopolly Mills Limited, (hereinafter called the appellant) and its workmen (hereinafter called the respondents). For the year 1951 the respondents claimed by way of bonus six months' wages including dearness allowance and the appellant denied its liability to grant the said claim. The dispute which thus arose between the parties was referred to the Industrial Tribunal at Madurai for adjudication. The tribunal directed the appellant to pay to the respondents bonus for the relevant year amounting to four months' basic wages. Against this award the respondents preferred an appeal before the Labour Appellate Tribunal and urged that in the circumstances of the case they were entitled to a much larger bonus. The appellate tribunal substantially accepted the respondents' plea and increased the amount of bonus from four months' basic wages to eight months' basic wages. It is against this increased award of bonus directed by the appellate tribunal that the present appeal has been filed by the appellant with special leave.

2. It is common ground that in determining the amount of bonus the Labour Appellate Tribunal has applied the Full Bench formula. Two contentions have, however, been raised before us by Mr. Viswanatha Sastri on behalf of the appellant. He argues that the Labour Appellate Tribunal was in error in awarding to the appellant only Rs. 66,948 by way of rehabilitation and replacement charges. According to him the tribunal was right in fixing the said amount at Rs. 1,61,780. The other contention raised is that even on the findings recorded by the Labour Appellate Tribunal it was unreasonable to have increased the bonus to eight months' basic wages.

3. Now, the position with regard to the appellant's claim for rehabilitation is that the appellant led no evidence in support of its claim. It contented itself by relying on a previous award between the parties in respect of a claim for bonus for the year 1948. On the other hand, the respondents relied on a previous award between the parties in respect of the claim for bonus for the year 1950. The tribunal took the view that the decision between the parties in respect of bonus claim for 1948 was

binding and it should be taken as a basis for deciding the present claim, whereas the Labour Appellate Tribunal has preferred to rely upon the latter decision and taken that as the basis for calculating the amount of rehabilitation and replacement charges. It! is now well settled that the employer has to prove by satisfactory evidence the particular claim he wishes to make under the head of rehabilitation and replacement charges. There is no doubt that no satisfactory evidence has been led in the present proceedings. It is true that Mr. H. Srinivasa Rao, the Secretary of the appellant, has made some statements in respect of this claim in his evidence-in-chief but they are wholly insufficient to assist in deciding the merits of the appellant's claim for rehabilitation. The witness stated that the present cost of replacement of the machinery in the mills if replaced would be Rs. 16,65,000 c.i.f., and he added that the cost of the existing general machinery may be Rs. 22,00,000 while that of the existing electrical machinery may be about Rs. 6,00,000. He also produced Ex. M-11 which contains the quotations received by the appellant in 1950. It would be noticed that the witness gave no evidence about the probable life of the machinery and about its condition during the relevant year. Unless satisfactory evidence is given on this point it would be impossible to make any finding as to the rehabilitation charges on the materials given by the witness. Therefore, it is not possible to accede to the argument that the evidence of this witness affords a legal and reliable basis for dealing with the point in dispute.

4. That takes us to the question as to which of the two previous decisions should be treated as affording more satisfactory assistance. As we have already indicated the tribunal and the Labour Appellate Tribunal have differed on this point. Apart from the fact that on such a point we would be reluctant to interfere with the decision of the Labour Appellate Tribunal, even if we were inclined to prefer the view of the tribunal, on the merits we do not see how the view taken by the Labour Appellate Tribunal can be successfully challenged. It is not denied that the principles of res judicata cannot be strictly invoked in the decisions of such points though it is equally true that industrial tribunals would not be justified in changing the amounts of rehabilitation from year to year without sufficient cause. As the Labour Appellate Tribunal has pointed out, when the dispute about the bonus for the year 1950 was pending between the parties, the appellant itself had suggested that the said dispute should be decided after the earlier dispute for the year 1948 which was then pending before the Labour Appellate Tribunal was finally determined, and it was conceded that the final decision in respect of the said earlier dispute would facilitate the decision of the dispute then pending. Besides, it appears that in dealing with the dispute for the year 1948 the appellate tribunal had accepted the statement for the first time submitted before it showing the appellant's claim for rehabilitation at Rs. 1,75,000 and it was not clear that the respondents had a chance to examine the correctness of the said figure. If on these considerations the appellate tribunal preferred to accept the view taken in the dispute for the year 1950 we do not see how that can justify the grievance made by the appellant before us in an appeal under Article 136. Therefore, we are not inclined to interfere with the direction of the Labour Appellate Tribunal that in respect of rehabilitation and replacement charges the appellant is entitled to claim Rs. 66,948 and not Rs. 1,61,780. In regard to replacement and rehabilitation charges for buildings there is no dispute between the parties.

5. The next question which falls to be considered is whether on the findings recorded by it the Labour Appellate Tribunal was justified in allowing eight months' basic wages by way of bonus to the respondents. The result of these findings is that the initial available surplus is Rs. 6,65,963/-.

After making deductions in respect of the four prior charges the amount available for distribution comes to Rs. 2,22,473/-. Out of this amount the Labour Appellate Tribunal has directed Rs. 1,28,000/- to be distributed among the respondents by way of bonus leaving a balance of Rs. 94,473/- with the appellant. To this amount must be added the rebate of income-tax to which the appellant would be entitled by virtue of the grant of bonus. This amount is Rs. 59,714/-. Thus in the result the appellant is left with Rs. 1,54,187/-. Mr. Sastri contends that the award of eight months' bonus is unreasonably high and should be reduced. It is true that the respondents had claimed bonus for six months but this claim was made on the assumption that the calculation of bonus would be made on the footing of basic wages plus dearness allowance. Therefore it cannot be said that the Labour Appellate Tribunal has given to the respondents more than they claimed. Mr. Sastri contends and with some force that in making the actual direction about the payment of bonus the Labour Appellate Tribunal has given no reasons, and so it is difficult to decide whether in distributing the surplus it was conscious that in the available surplus three claims have to be adjusted, the claim of the employer, the claim of the shareholders and the claim of labour. There is also some force in the argument that an award of eight months' basic wages by way of bonus when the available surplus is less than Rs. 3,00,000/- is somewhat unusual. Besides Mr. Sastri has laid considerable emphasis on the decision of the Labour Appellate Tribunal in Mettur Industries Ltd. v. Their Workmen, 1957-2 Lab LJ 490, in support of his contention that one of the members of the Labour Appellate Tribunal which has decided the present dispute has in substance explained the present decision on the ground that some of the relevant considerations had not been pressed before the Labour Appellate Tribunal when it decided the present dispute. There is no doubt that there are certain observations made in the decision of the Mettur Industries, 1957-2 Lab LJ 490, on which Mr. Sastri is entitled to rely and it may, therefore, be conceded that the award of eight months' bonus may perhaps have been made without taking into account all relevant factors; but the question still remains as to what order we can make in the present appeal. As we have recently pointed out in the case of Associated Cement Companies Limited, Dwarka v. Its Workmen, , the distribution of the available surplus is determined in the light of several relevant facts; but unfortunately the record of the present appeal contains no material which would assist us in applying the tests laid down in that behalf. Therefore it would be difficult for us to decide what should be the proper amount of bonus to which the respondents are entitled in the present dispute. If, as Mr. Sastri contends, the decision of the Labour Appellate Tribunal does not disclose the reasons on which the distribution is ordered, how can we substitute the said order of distribution by any other order without the assistance of relevant material? Under the circumstances all that we can do is to direct that the present award should not be treated as a precedent in deciding similar disputes between the parties in future. The quantum of bonus to be paid to workmen in any dispute of this kind must inevitably depend on the facts of each case. In the present proceedings proper and adequate evidence had not been led. There is no doubt that, when the Labour Appellate Tribunal reduced the amount of rehabilitation and replacement from Rs. 1,61,780 as ordered by the tribunal to Rs. 66,948, a case was obviously made for increasing the award of bonus to an amount higher than 4 months' basic wages granted under the award. Whether the increase should have been to six months' basic wages or seven months or eight months is a matter on which it is difficult for us to pronounce a judgment having regard to the paucity of the relevant material available on the record. That is why we think the appellant is not entitled to ask us to alter the award in question.

6. The result is the appeal fails and is dismissed. In the circumstances of this case there would be no order as to costs.