The Management Of Pradip Lamp Works, ... vs The Workmen Of The Pradip Lamp Works, ... on 28 August, 1969

Equivalent citations: [1969(19)FLR385], (1970)ILLJ507SC, 1969(2)UJ588(SC)

Author: J.M. Shelat

Bench: Chief Justice, J.M. Shelat

JUDGMENT

J.M. Shelat, J.

1. This appeal, by special leave, arises out of a reference dated August 13, 1964 made by the Government of Bihar to the Labour Court, Patna. The reference required adjudication of the question whether the dismissal by the appellant-company of the 10 workmen mentioned therein was proper and justified, and if not, whether they were entitled to reinstatement or any other relief.

2. Before the Labour Court, the management challenged the validity of the reference on the grounds: (a) that it was invalid a;; the copy thereof served on the management was not accompanied by a statement of the workmen's demand as required by rr. 13 and 14 of the Bihar Industrial Rules, 1961, (b) that the dispute was not an industrial dispute as it was not sponsored by the recognized union or , by a substantial number of workmen and (c) that a letter dated June 25, 1964 addressed by the Pradip Lamp Works Karamchari Sangh (a union which was a rival union of the one recognised by the management) to the Government could not form the basis of the reference. The Labour Court found no substance in any one of these preliminary objections and Held the reference valid, Hence this appeal.

3. The contention which counsel for the management urged before us was that there were no conciliation proceedings before the conciliation officer, and that therefore, the failure report made by him to the Government was not true. Consequently, there was no valid report before the Government which could be the basis of the reference in question. An additional contention sought to be raised was that the dispute on which the said reference was made was not an industrial dispute. The questions raised by counsel are thus partly of fact and partly of law, namely, whether there were in fact concilliation proceedings, and even if so, whether the dispute not having been sponsored by the recognised union was an individual and not an industrial dispute upon which no reference could be made under Section 10(1) of the Industrial Disputes Act, 1947.

4. These contentions, in our view, cannot be sustained on the facts on record. It is clear from the record that on September 14, 1963 Sheonath Prasad, one of the 10 concerned workmen, made an application, Ex. 1/K-a, to the conciliation officer complaining about his dismissal. This was followed

by an application dated November 29, 1963 by 3 other dismissed workmen complaining about their dismissal and requesting the conciliation officer to hold conciliation proceedings. It appears that a large number of workmen were not satisfied with the existing union, namely, the Pradip Lamp Workers Union. They, therefore, formed a new union called the Pradip Lamp Karamchari Sangh. But as the Sangh was not yet registered, the workmen held a. meeting on December 9, 1963 and appointed 5 representatives from amongst them to represent the dismissed workmen.

5. The evidence of the. conciliation officer before the Labour Court shows that on receipt of letters from the concerned workmen he call-fed upon the parties to appear before him for conciliation first on. December 21, 1963 and thereafter on January 23, 1964. Though the workmen's said representatives appeared before him, the management declined to do so, both orally and by letters, on the ground that the said dispute was agitated by the Sangh which was not the recognised union. The reason for refusal to attend, was not that the management was. not aware of the actual dispute, but because the dispute was not raised by the union recognised by them. The facts that the workmen were agitating the dispute regarding the dismissal of the said 10 workmen before the conciliation officer, that that officer had fixed meeting for conciliation and the management's refusal to attend are clearly borne out by the letter Ex. l/G-a dated January 29, 1964. That letter was addressed by the said representatives to the Labour Commissioner with copies thereof sent to the Labour Minister, the management and the conciliation officer. In that letter, the said representatives threatened that if nothing was done in the matter of the said dismissals within a month the workmen would resort to a strike. The management refused to accept the copy of this letter sent to them presumably on the ground that the dispute was sponsored not by the union recognised by them but by the unregistered Sangh. In view of these facts the management could not be heard to say that they had no previous knowledge of the dispute; nor could they take advantage, as the Labour Court has remarked, of the fact that through inadvertence the copy of the letter sent to them along with the reference was not of the letter of January 29, 1964 but of another letter dated June 25, 1964 addressed by the Sangh to the management.

6. The fact that the conciliation officer had fixed meetings for setting the dispute and the management's non-co-operation by refusing to attend them clearly appear in the failure report of that officer (Ex. 3) dated February 3, 1964. In that report the officer has stated that the complaint of the workmen was that the management favoured the union recognised by them, that they did not like the idea of the workmen starting a rival union though the majority of them had joined the new union and that the dismissals of the said 10 workmen were in the nature of reprisals against the workmen having joined the new union. The conciliation officer has further stated that the management having refused to attend the meetings called by him, he was not in a position to give any opinion about their case or to conciliation between the parties, and added that the situation was so rapidly deteriorating that the Government should take a quick decision to avert breach of industrial peace. Obviously, the Government decided upon making the reference in pursuance of this report to have the dispute adjudicated and to avert the strike threatened by the workmen. It cannot be gainsaid, therefore, that there was an existing dispute, or at any rate an apprehended dispute, which became the basis of the impugned reference. The evidence of the conciliation officer that the management refused to attend the meetings called by him and that therefore he could not explain to them the complaint of the workmen is thus fully borne out by the report Ex. 3, The

contention that there were no conciliation proceedings and that the failure report contained a false statement to that effect, and therefore, was not a report on which the reference could be made is clearly negatived by the evidence on record. That contention must consequently be rejected.

7. The second contention that the dispute regarding the dismissal of the 10 workmen was an individual and not an industrial dispute equally has no merit. The dispute, no doubt, was not sponsored by the recognised union but it cannot be said for that reason alone that it was not an industrial dispute. There is clear evidence that a large number of workmen, if not a majority of them, had formed a rival union. Though complaints filed before the conciliation officer at first were by the individual workmen, their cause was subsequently taken up by the new union. This is clear from the meeting held on December 9, 1963 at which the said 5 representatives were elected to prosecute the cases of the 10 workmen. That course presumably was adopted because the new union was not yet registered as its application for registration had not yet been finally disposed of. The letter of January 29, 1964 shows that it was in pursuance of the authority given to them at the said meeting that the said 5 representatives took up these cases and complained that nothing was being done by the conciliation officer against those dismissals, and threatened a strike.

8. There is, thus clear evidence of these-cases-having been espoused by the new union or, being yet unregistered, by a substantial number of workmen. The fact that these cases were not taken up by the recognised union does not mean that they were not industrial disputes. There are decisions of this Court which have laid down that espousal of a dispute before a reference is made even by a minority union, having a membership of substantial number of workmen, is sufficient to make such a dispute an industrial dispute. See Work-men of Indian Express v. The Management C.A. No. 1733 of 1967, decided on November 26, 1968. It is, therefore, impossible to say that these disputes were individual and not Industrial disputes and that for that reason the impugned reference was incompetent.

9. The contentions raised on behalf of the management in our view, lack merit. The appeal fails and is dismissed with costs.