

State vs Beni Bahadur Singh on 11 November, 1955

Equivalent citations: 1957CRILJ268

ORDER

Roy, J.

1. This is a criminal revision on behalf of the State of Uttar Pradesh against an order dated the 20th of April, 1954, passed by the Sessions Judge of Gorakhpur, allowing a Criminal appeal filed by the opposite-party by which he set aside an order dated the 9th of April, 1953, passed by a learned Judicial Magistrate of the First Class by which the Magistrate allowed a compensation of Rs. 7 per worker to each of 1,400 workers belonging to the Padrauna Raj Krishna Sugar Works Limited, Padrauna, under the provisions of Section 15 of the Payment of Wages Act, No. IV of 1936.

2. A preliminary objection has been taken by the opposite-party to the effect that a revision does not lie.

3. The Chief Inspector of Factories complained to the District Magistrate of Deoria that Sri Beni Bahadur Singh, the Manager of the Padrauna Raj Krishna Sugar Works Limited, who was the person responsible under the Payment of Wages Act for the payment of wages to 1,400 of the workers, failed to pay the wages for December, 1952, and he sought direction under Sub-section (3) of Section 15 for payment of the delayed wages and for compensation amounting to Rs. 10 for each worker. Under Section 15(1) of that Act the Provincial Government may, by notification in the Official Gazette, appoint any commissioner for workmen's compensation, or other officer with experience as a Judge of a Civil Court, or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages or delay in the payment of wages of persons employed or paid in that area. The Provincial Government by Notification No. 3844/XVIII-625, dated the 22nd of December, 1936, appointed every officer of the Indian Civil Service or of the United Provinces Civil Service in charge of a subdivision, or a City Magistrate to be the authority to hear and decide all claims arising out of deductions from wages or delay in payment of wages of persons employed in his jurisdiction.

Under that Notification the District Magistrate of Deoria, who did not belong either to the Indian Civil Service or of the United Provinces Civil Service in charge of a subdivision and who was not even the City Magistrate, was not the person who could be regarded as the authority to hear and decide claims arising out of delay in payment of wages of persons employed or paid in that area. The District Magistrate, therefore, wrongly assumed jurisdiction over the matter when on the 5th of February, 1953, he passed an order to the effect that the claim in respect of the delay in the payment of the wages should be inquired into and tried by "The Judicial Officer Hata (Sri Naimuddin Ahmad), Kasia."

This officer again was a Judicial Magistrate who did not belong either to the Indian Civil Service or to the United Provinces Civil Service in charge of a sub-division and who was not even the City Magistrate authorised to hear and decide such claims. The Judicial Magistrate heard the matter and by his order dated the 9th of April, 1953, directed Sri Beni Bahadur Singh to pay a total sum of Rs. 9,800 to the 1,400 workers, reckoned at Rs. 7 per worker, under Section 15(3) of the Act.

4. As against that order a criminal appeal, No. 95 of 1953, was preferred by Beni Bahadur Singh before the Sessions Judge of Gorakhpur. The Sessions Judge allowed the appeal on the 20th of April, 1954, holding that Sri Naimuddin Ahmad, the Judicial Magistrate, was not the authority appointed under Section 15(1) of the Act to hear and decide such claims and consequently the order passed by him was ultra vires. Against the order of the Sessions Judge the present criminal revision has been filed.

5. In support of the argument that no revision lies reliance has been placed upon a Division Bench decision of this Court in *Trilok Nath v. Krishna Sugar Mills, Ltd.* AIR 1946 All 276 (A), where it was laid down that a commissioner appointed under the provisions of the Payment of Wages Act, 1936, is not a Court subordinate to the High Court within the meaning of Section 115 of the Code of Civil Procedure, and hence a revision application does not lie to the High Court from an order passed by the commissioner. In that case the application in revision was made under the Code of Civil Procedure. It was found that the District Magistrate was appointed by the Provincial Government to hear and decide all claims arising out of deductions from wages or delay in the payment of wages of persons employed or paid in the area concerned.

The District Magistrate rejected the application on the ground that the applicant was not an employed person within the meaning of Section 15 of the Act and, therefore, was not eligible to apply to the District Magistrate for a direction under Sub-section (3) of that section. It was observed in revision that the authority appointed under Section 15 was not a Court subordinate to the High Court and no revision lay. Section 18 of the Act provides that the authority appointed shall have all the powers of a civil Court under the Code of Civil Procedure for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil Court for all the purposes of Section 195 and Chapter XXXV, Criminal Procedure Code.

There is no other provision in the Act which would indicate that such authority shall be deemed to be a civil Court under the Code of Civil Procedure for other purposes, or a criminal Court under the Code of Criminal Procedure. I do not therefore think that such authority can be considered subordinate to this Court for the purpose of Section 115, Civil Procedure Code, or for the purpose of Sections 435 and 439 of the Code of Criminal Procedure.

6. I have been referred to certain cases to support the argument that an application in revision lies. In *Shrinivas v. Superintendent, Govt. Printing Press, Nagpur* AIR 1945 Nag 94 (B), upon an application in revision being filed to the High Court under Section 115 of the Code of Civil Procedure it was held, on a consideration of the provisions in Sub-section (2) of Section 17 of the Payment of Wages Act, that a revision lay to the High Court. This view was distinguished in the Division Bench

decision of this Court cited above. A Full Bench of the Lahore High Court held in *Works Manager, Carriage & Wagon Shops, Mohalpura v. Hashmat* AIR 1946 Lah 316 (C), that an authority appointed under Section 15 of the Payment of Wages Act, 1936, is a civil Court and is subject to the revisional jurisdiction of the High Court under Section 115, Civil Procedure Code. The Nagpur and the Lahore decisions cannot be attracted by the State to its own aid in the present case in view of the decision of this Court in AIR 1946 All 276 (A), which still holds the field so far as this Court is concerned.

Moreover, if the authority appointed under Section 15 of the Act is to be deemed a civil Court subject to the revisional jurisdiction of the High Court under Section 115 of the Code of Civil Procedure, an order passed by such an authority cannot be made the subject of criminal appeal before the Sessions Judge, nor can an order passed by the Sessions Judge upon such an appeal be made the subject of criminal revision under Sections 435 and 439 of the Code of Criminal Procedure to this Court. In this view of the matter the preliminary objection must be upheld.

7. The application in revision does not lie to the High Court under Sections 435 and 439 of the Code of Criminal Procedure. It is accordingly dismissed.