The Laxmi Devi Sugar Mills vs The Labour Appellate Tribunal Of India ... on 30 March, 1953

Equivalent citations: (1953)ILLJ224ALL

ORDER

1. The applicant, the Laxmi Devi Sugar Mills, Ltd., situated at Chhitauni in district Deoria, has made two applications under Article 226 of the Constitution. In these "writ petitions, the prayer is that the order of the Labour Appellate Tribunal of India be quashed, and suitable ordors be passed in the case.

2. The facts of the case in brief are that the applicant mills is a limited liability company carrying on the manufacture of sugar in village Chhitauni, and there are a number of workmen working in the mills. On 27 March 1952, there was some dispute between 76 workmen, belonging to the engineering department, and the management. At about 10-30 a m. the management passed an order suspending the workmen. It was alleged on behalf of the applicant that at about 1 p.m. these workers made a forcible entry into the factory, and the police had to be called. On 2 June 1952 charge-sheets were issued to all the 76 workmen with a copy to the Chini Mill Mazdoor Sangh (it was an association of the workers at Chhitauni). An enquiry was fixed for 6 June 1952 and a magistrate was called to be present at the enquiry but the workmen did not turn up. A written statement submitted by the workmen was said to have been considered but the management was not satisfied with the explanation and found the workers guilty of misconduct.

3. At this time an appeal was pending before the Labour Appellate Tribunal in connection with another dispute between the management and some workmen. The management applied under Section 22 of the Industrial Disputes (Appellate Tribunal) Act of 1950 for permission to dismiss the 76 workmen. This application was moved on 11 June 1952. Two days before the mills moved the application under Section 22, another application had been moved under Section 23 of the same Act, by the Chini Mill Mazdoor Sangh on behalf of 76 suspended workmen. Both these applications were heard by the Labour Appellate Tribunal at Allahabad, and were disposed of by their order, dated 19 August 1952. (See 1952 II L.L.J. 801.) The Tribunal decided both the applications against the mills. The application filed by the mills under Section 22 was dismissed mainly on the ground that the mills had omitted to issue a charge-sheet to the workmen within four days of the date of occurrence. As stated above, the date of the occurrence was 27 May 1952 and the charge-sheet was submitted on 2 June 1952 and not on 31 May 1952. It was held that the workmen could be suspended only for four days pending enquiry. But if it was desired to extend the period of suspension, then the management had to give sufficient reasons.

4. The enquiry was admittedly not held within the prescribed period of four days. The reason given by the mills, for furnishing the charge-sheet after six days, and for keeping the workers suspended meanwhile, was not considered as sufficient reason by the Tribunal. It was held that the mills did not act in strict compliance of the standing orders and, therefore, the permission asked for to

dismiss the 76 workmen could not be granted. The application of the mills, therefore, filed under Section 22 was dismissed.

5. As regards the application filed by the Chini Mill Mazdoor Sangh under Section 23 on behalf of the 76 workers, it was held that the management had stopped the workmen from working, and this action, therefore, in substance amounted to an illegal lockout. It was urged before the Tribunal that the lockout was not illegal inasmuch as it was in consequence of an illegal strike. The Tribunal, therefore, considered the question as to whether there was an illegal strike or not. The Tribunal held that it was not in a position to hold defintely as to what was the exact situation. But it did appear that a mountain had been made of a mole-hill. It held that even if it be conceded that some of the persons were not working at the start of the day on 27 May 1952, it could not be said that an illegal strike was on. It was further observed that the management had really themselves never thought of locking out the workers. They only wanted to suspend the suspected persons pending enquiry. It was further held that the conduct of the management in prohibiting the workmen from working amounted to a punishment, and was in contravention of the provisions of Section 22(b) of the Industrial Disputes (Appellate Tribunal) Act of 1950. It was consequently ordered that all the 76 workmen should be reinstated, if they presented themselves at the office of the manager within fifteen days, and they were to be paid half the salary and allowances for the period of their unemployment, that is, from 27 May 1952 up to the date on which they were taken back in service.

6. In writ case No. 402 of 1952, the main grounds taken are that the Tribunal had committed an error apparent on the face of the record, inasmuch as the workmen were suspended pending enquiry for a period exceeding four days upon sufficient reasons; that the delay not being unreasonable, the suspension of the workmen for more than four days was justified; but the Tribunal had not applied its mind to the question whether there was any illegal strike; and that upon a true and proper interpretation of the law the Tribunal should-have allowed the application of the mills and permitted it to dismiss the workmen.

7. The grounds, set forth above, challenge the findings of the Tribunal on matters which were within the jurisdiction of the Tribunal. The Tribunal has clearly held that the mills has not been able to prove that there was an illegal strike, and has come to the conclusion that there was no illegal strike. These were the matters which arose for decision by the Tribunal. The Tribunal admittedly had the jurisdiction to deal with the matters, and it has not been shown to us how there was an error apparent on the face of the record. The decision of these questions being within the jurisdiction of the Tribunal, this Court cannot consider whether that decision was right or wrong. This petition, therefore, fails.

8. A number of grounds have been taken in writ case No. 409 of 1952, but the only points argued are that the application filed under Section 23 should have been filed by the employees themselves and the Chini Mill Mazdoor Sangh could not move the application on behalf of the employees ; and that the Tribunal having held that it was not in a position to hold definitely as to what was the exact situation, the Tribunal was bound to decide the application against the workmen.

9. As regards the first point, it does appear from the rules that an application should be made by the employees themselves, but in the present case, the application under Section 23 was actually made by the Chini Mill Mazdoor Sangh. The 76 employees applied to the sangh to take up their case before the Tribunal, but the employees themselves did not sign the application made under Section 23, which was signed only by the said sangh. The point now taken before us does not appeal to have been taken before the Tribunal itself, and it only raises a very technical objection which we are not bound to entertain in a writ petition. In case the point had been taken before the Tribunal it is possible that the Tribunal might have given an opportunity to the workmen to rectify the irregularity. Be that as it may, we think that it would not be proper exercise of our discretion under Article 226 of the Constitution to interfere when the objection is purely of a technical nature. There is the further fact that in case the objection had been taken before the Tribunal, and the Tribunal had overruled it, the decision of the Tribunal would not have been open to challenge under Article 226 of the Constitution vide Abu Baqar v. the Custodian General . We, therefore, overrule this objection.

10. As regards the second point, the decision of the Tribunal that the action of the mills amounted to a punishment of the workmen, is unassailable. The workmen had been suspended on 27 May 1952 and remained under suspension at least till the date of the order passed by the Appellate Tribunal. The permission to dismiss the workers was rightly refused by the Tribunal, and its decision that the conduct of the management amounted to a punishment appears to be a correct decision.

11. On the point of the management having ' resorted to a lockout, there is no real inconsistency in the decision of the Tribunal. The decision of the tribunal amounts to this that there was in substance a lockout, as far as these 76 workmen are concerned; though legally the action may not be covered by the definition of " lockout" as given in the Act. But the point is that the management having improperly punished the workmen during the pendency of an appeal before the Tribunal, the order of the Tribunal, which has been challenged before us, is fully justified. We have not been able to find any flaw in the order of a nature which could possibly justify us in interfering with it. This petition, therefore, is also liable to be dismissed.

12. The result therefore, is that both the writ petitions are dismissed. But, in the circumstances of the case, we direct the parties to bear their own costs.