Deoria Sugar Mills Ltd., Deoria vs Govt. Of U.P. And Ors. on 10 February, 1954

Equivalent citations: AIR1954ALL497, (1954)IILLJ269ALL, AIR 1954 ALLAHABAD 497

Author: V. Bhargava

Bench: V. Bhargava

JUDGMENT

Malik, C.J. and V. Bhargava, J.

1. The petitioners in these petitions for issue of writs in the nature of 'certiorari, mandamus' and prohibition are the Deoria Sugar Mills, Ltd., peoria, and Shri Sita Ram Sugar Company, Ltd., Baitalpur, District Deoria.

2. The facts alleged on behalf of the petitioner in Writ Petition No. 134 of 1950 are that, under the orders of the Government of Uttar Predesh, the petitioner-company was directed to pay out a fixed amount as bonus for the year 1947-48 in the year 1949 to the workers of the sugar factory, the definition of 'workers' being as given in Sub-rule 8 of Rule 11 of the Rules framed under the U. P. Sugar Factories Control Act, 1933. Interpreting this order as including workers employed at the Head Office of the Company at Calcutta the petitioner-company made pro rata payments to the workers employed at Deoria as well as to those employed at the Head Office at Calcutta.

The Deoria Chini Mill Mazdoor Union, representing the workmen employed in the company at Deoria, contended that no bonus was payable to the members of the staff at the Head Office at Calcutta and that the entire amount of bonus should have been disbursed to the workmen at Deoria who had received proportionately larger amounts.

This gave rise to an industrial dispute which was taken cognizance of by the Regional Conciliation Board, Gorakhpur, which gave an award respecting the dispute but stayed its decision on the issue whether bonus was rightly paid to the workmen at Calcutta pending the decision of the same issue in a previous case which was pending before the Industrial Court (Sugar), Lucknow.

Against this award, appeals were filed by the petitioner-company as well as by the Deoria Chini Mill Mazdoor Union, Deoria, before the Industrial Court (Sugar), Lucknow. The Industrial Court, after hearing the appeals, submitted its report to the Government of Uttar Pradesh, holding that the factory should distribute the entire amount of bonus to the workmen at Deoria and, consequently,

recommended that the petitioner-company should be directed to distribute the amount, which it had wrongly distributed to the Head office staff at Calcutta, amongst the workmen, at Deoria.

On this finding, the appeal of the petitioner-company was dismissed. The state of Uttar Pradesh, on the basis of this report, issued an order No. 900 (ST)/XVIII-430(ST)/48, dated 27-3-1950, by which it enforced the findings of the Industrial Court (Sugar), Lucknow, contained in the report mentioned above.

3. The facts of the other case (Miscellaneous Writ Case No. 214 of 1950) are exactly similar. In that case also, a specified amount was payable as bonus to the workmen for the year 1947-4& by the petitioner-company in 1949 and, in distributing the bonus, workmen employed at the Head, Office at Calcutta were included. An industrial dispute was raised by the Rashtriya Chini Mill Mazoor Sangh, Baitalpur, representing the workmen employed by the petitioner-company at Baitalpur. The dispute was first decided by the Regional Conciliation Board, Gorakhpur, on 24-5-1949, and, on appeal, the Industrial Court (Sugar), Lucknow, formulated its report on 30-11-1949, to the same effect as in Miscellaneous (Writ) Petition No. 184 of 1950. The State Government, on the basis of this report, issued Order No. 4301(ST)/XVIII-469(ST)/48. dated 17-12-1949.

4. By these writ petitions, the petitioner-companies challenge the validity of these orders of the State Government, praying for issue of writs in the nature of certiorari quashing the reports of the Industrial Court (Sugar), Lucknow, and the orders of the Government of Uttar Pradesh. based on those reports, dated 27-3-1950 and 17-12-1949.

A second prayer was made for issue of writs in the nature of mandamus directing opposite party No. 1, the Government of Uttar Pradesh, to forebear from prosecuting or taking any other action under its orders, dated 27-3-1950, and 17-12-1949.

The third prayer was that writ in the nature of prohibition be issued to opposite party No. 1, the u. P. Government, restraining it from taking any action under its orders dated 27-3-1950, and 17-12-1949, against the petitioners.

5. The correctness of the facts alleged by the petitioners is not contested by the opposite parties who are three in number in each case. The Govt. of Utter Pradesh and the Industrial Court (Sugar), Lucknow, are the first two opposite parties in both these cases. In Writ Petition No. 184 of 1950, the third opposite Party is the Deoria Chini Mill Mazdoor Union. Deoria, whereas the third opposite party in Writ Petition No. 214 of 1950 is the Rashtriya Chini Mill Mazdoor Sang, Baitalpur, district Deoria.

6. The contention on behalf of the petitioners in these two cases is that the definition of "workers" given in Rule 11(8) of the Rules framed under the U. P. Sugar Factories Control Act, 1938, was wrongly applied by the Industrial Court (Sugar), Lucknow and this resulted in an incorrect interpretation of the orders of the U. P. Government, directing payment of bonus to the workers by the petitioner-companies.

According to the Industrial Court (Sugar), Luck-now, the definition of 'workmen', as given In Sub-rule 8 of Rule 11 of the Rules framed under the U. P. Sugar Factories Control Act, 1938, is very wide and included both the Head office staff as well as the farm staff but, in view of Section 1(2), U. P. Sugar Factories Control Act, 1938, which shows that the Act extends to the State of Uttar Pradesh only, the Head Office staff which worked at Calcutta outside the State of Uttar Pradesh, could not be included within the definition of the word 'workmen' as given in Rule 11(8) and, consequently, no bonus was payable to the staff at Calcutta.

It was submitted that this decision on a question of law was wrong and that, therefore, the reports of the industrial Court (Sugar), Lucknow, & the orders of the Government of Uttar Pradesh passed thereon should be quashed.

Learned counsel for the petitioners did not contend before us that the Industrial Court (Sugar), Lucknow, had no jurisdiction to decide the industrial disputes which were referred to it, nor was it contended that the state Government, in any way, exceeded its statutory powers in passing orders based on the reports of the industrial Court.

The contention is that the view taken by the Industrial Court (Sugar), Lucknow, that, in order to interpret the definition of the word 'workmen', as given in Rule 11(8) of the Rules framed under the U. P. Sugar Factories Control Act, 1938, the provisions of Section 1(2) of the Act should be taken into account, is clearly wrong. These contentions make it clear that, by these petitions for issue of write under Article 225 of the Constitution, what the petitioners seek are writ to quash the decision of the Industrial Court (Sugar), Lucknow, and the orders of the Government of Uttar Pradesh which are admitted to be within their jurisdiction.

The jurisdiction of this Court to issue writs, orders or directions under Article 226 of the Constitution cannot be exercised for such a purpose. In -- 'Ebraiiim Aboobakar v. Custodian General of Evacuee Property', AIR 1952 SC 319 (A), the Supreme Court held :

> "It is plain that such a writ cannot be granted to quash the decision of an inferior court within its jurisdiction on the ground that the decision is wrong. Indeed, it must be shown before such a writ is issued that the authority which passed the order acted without jurisdiction or in excess of it or in violation of the principles of natural justice. Want of jurisdiction may arise from the nature of the subject-matter, so that the inferior court might not have authority to enter on the inquiry or upon some part of it. It may also arise from the absence of some essential preliminary or upon the existence of some particular facts collateral to the actual matter which the court has to try and which are conditions precedent to the assumption of jurisdiction by it. But once it is held that the court has jurisdiction but while exercising it, it made a mistake, the wronged party can only take the course prescribed by law for setting matters right inasmuch as a court has jurisdiction to decide rightly as weE as wrongly."

The Supreme Court, in the same case, approved of the principles laid down by Lord Esher, Master of the Rolls in -- 'Reg v. Income Tax Commrs.', (1888) 21 Q B D 313 (B).

The question as to when a writ under Article 226 of the Constitution can be issued to quash the proceedings of an inferior court was discussed by a Division Bench of this Court in -- 'Sundar Lal Saxena v. Hindustan Commercial Bank, Ltd.', AIR 1953 All 260 (C) the principle, laid down by the Supreme Court in -- 'AIR 1952 SC 319 (A)', was followed and a number of English cases on the subject were also discussed.

In that case, an industrial dispute was referred to the Industrial Tribunal at Calcutta by the Central Government and the language, in which Jt was referred, required an Industrial Tribunal to decide the disputes relating to retrenchment, discharge or dismissal of workmen after a specified date and to stoppage of their increments and withholding of promotions. There was a further note that specific cases were to be cited by the employees. The petitioner, in that case, contended that he was a workman and that, his case having been referred to the Tribunal, the Tribunal was bound to decide it.

The Tribunal, however, on going into the facts, held that the petitioner was not a workman and, consequently, refused to entertain his claim. The Bench held that the determination of the question whether the petitioner was a workman was not the determination of a preliminary or collateral fact on which depended the exercise of jurisdiction by the Tribunal. That question was involved in the decision by the Tribunal of the very dispute which had been referred to it. The only authority, that was to decide the question, could be the industrial Tribunal itself and nobody else, and, consequently, that question was one which was referred to the Tribunal for its decision and was intrinsic of the matter which was for decision before the Tribunal.

The decision on such a matter by the Tribunal in exercise of its jurisdiction could not, consequently, be challenged by a writ of 'certiorari' as the Tribunal had jurisdiction to determine it and as long as it had jurisdiction it, could determine that fact rightly or wrongly. Even a wrong determination of a fact would not amount to exercise of jurisdiction not vested in it, or, refusal to exercise jurisdiction vested in it. we hold that the principle, laid down in that case, was correct and should be applied by us to the present cases also.

In these cases, the Industrial Court (Sugar) Lucknow, had jurisdiction to decide the question whether the members of the staff of the petitioners-Companies at Calcutta were or were not workmen for purposes of the orders of the Government, directing payment of bonus by the petitioner-companies to their workmen. In order to decide this question, the Industrial Court had to refer to the provisions of the U. P. Sugar Factories Control Act, 1938, and the rules framed thereunder. Even if the Courts committed an error in interpreting those provisions and came to a wrong conclusion, the decision by the Industrial Court cannot be held to be one without jurisdiction or in excess of it & cannot, consequently, be challenged by issue of a writ under Article 226 of the Constitution. This Court in exercise of its writ jurisdiction, cannot convert itself into a court of appeal for the purpose of judging the correctness or incorrectness of a decision of a Tribunal which, admittedly, was rightly seized of the matter and had jurisdiction to give a decision therein.

7. Shri Pathak, learned counsel for the petitioners, referred, us to two other decisions of the Supreme Court in -- 'Parry & Co., Ltd. v. Commercial Employees' Association, Madras', AIR 1952 SC 179 (D) and -- 'Veerappa Filial v. Raman and Raman, Ltd.', AIR 1952 SC 192 (E) and, on their basis, contended that, in these cases, there was an error apparent on the face of the record and, consequently this Court had jurisdiction to issue a writ of certiorari, quashing the incorrect orders of the Industrial Court.

In the former case, their Lordships of the Supreme Court held :

> "The Commissioner was certainly bound to decide the questions and he did decide them. At the worst, he may have come to an erroneous conclusion, but the conclusion is in respect of a matter which lies entirely within jurisdiction of the Labour Commissioner to decide and it does not relate to anything collateral, an erroneous decision upon which might affect his jurisdiction. The records of the case do not disclose any error apparent on the face of the proceeding or any irregularity in the procedure adopted by the Labour Commissioner which goes contrary to the principles of natural justice. Thus there was absolutely no grounds here which would justify a superior court in issuing a writ of 'certiorari' for REMOVAL of an order or proceeding of an inferior tribunal vested with powers to exercise judicial or quasi judicial functions.
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> What the High Court has done really is to exercise the powers of an appellate court & correct what it considered to be an error in the decision of the Labour Commissioner. This obviously it cannot do. The position might have been different if the Labour Commissioner had omitted to decide a matter which he was bound to decide and in such cases a 'mandamus' might legitimately issue commanding the authority to determine questions which it left undecided; but no 'certiorari' is available to quash a decision passed with jurisdiction by an inferior tribunal on the mere ground that such decision is erroneous."

In the latter case, their Lordships, dealing with the writ jurisdiction of a High Court under Article 226 of the Constitution, observed:

> "Such Writs, as are referred to in Article 226, are obviously intended to enable the High Court to issue them in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction vested in them, or there is an error apparent on the face of the record, and such act, omission, error, or excess has resulted in manifest injustice.
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> However extensive the jurisdiction may be, it seems to us that it is not so wide or large as to enable the High Court to convert itself into a Court of appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or the order to be made."

Neither of these two cases, in our opinion supports the submission of Shri Pathak that we would be entitled, in these cases, to examine the correctness or incorrectness of the decision of the Industrial Court (Sugar), Lucknow which was given in exercise of jurisdiction vested in it.

Merely because a decision may be incorrect on the ground that the inferior court wrongly, inter-preted some provisions of law, or, has wrongly applied some provision of law, which was not applicable, in arriving at its decision, it cannot be said that that court has exercised jurisdiction not vested in it, or, has committed an error, apparent on the face of the record or proceeding which justify interference by issue of a writ of certiorari'. It is obvious that an incorrect decision, whether on a question of fact or on a question of law, by a court or tribunal in proper exer-:ise of jurisdiction vested in it is not contemplated by the words, "error on the face of the record or proceeding", used by their Lordships of the Supreme Court in the cases referred to s.bove. Such an error would be merely a wrong decision on a question of law which can be re-examined only by a court of appeal and not in proceedings for issue of a writ under Article 226 of the Constitution. The appropriate remedy for the petitioners if any could be by way of an application for special leave to appeal to the Supreme Court against the decision of the Industrial Court (Sugar), Lucknow, in case they wanted to seek redress against a decision which they contended was incorrect.

8. These writ petitions are, consequently, not maintainable and are dismissed with costs to opposite-party No. 1, the Government of the state of Uttar Pradesh, which was the only party that appeared before us to contest these writ petitions. We assess the costs to opposite party No. 1 at Rs. 200/- in each case.

Sapru, J.

9. I agree. I do not propose to set out the facts which have given rise to these two petitions as that task has been performed for us by my brother V. Bhargava.

10. The short question which these petitions raise is whether this Court would be justified in quashing the decision of the Industrial Court (Sugar), Lucknow and the orders of the Government of Uttar Pradesh thereon when admittedly, as has been pointed out by my brother V. Bhargava, in doing so they did not exceed the jurisdiction that was vested in them.

For the contention which has been put forward on behalf of the petitioners is not that the Industrial Court had no jurisdiction to decide the industrial disputes which had been referred to it or that the State Government went beyond its statutory powers in passing orders on the report of the Industrial Court, but that the Industrial Court could not, in interpreting the word "workman" as defined by Rule 11(8) of the Rules framed under the U. P. Sugar Factories Control Act, 1938, ignore the provisions of Section 1(2) of the Act.

The point for consideration, therefore really is whether the word 'workmen' has been correctly interpreted by the Industrial Court and the U. P. Government in these particular cases and, if not, whether this Court can interfere with orders passed by the Uttar Pradesh Government.

Reference on this point has been made by my brother V. Bhargava to the relevant decisions of the Supreme Court and the case in -- 'AIR 1953 All 280 (C)' and it is unnecessary to dilate at length on those decisions or to examine the facts on which they were based. Suffice it to say that viewing these points in the light of the cases just referred to it cannot be said that the Industrial Court and the U. P. Government either exceeded the jurisdiction that was vested in them or even passed orders based on errors which can be held to be "apparent on the face of the record". The mere fact that this Court would have arrived at a different conclusion in regard to the interpretation to be given to the word "workmen" would not entitle it to interfere with the orders of the U. P. Government based upon an interpretation of the word 'workmen' by the Industrial Court.

Article 136(1) of the Constitution authorises the Supreme Court in its discretion to grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India. Clearly if the petitioners feel aggrieved by the orders in question, they have the remedy of applying for special leave to appeal to the Supreme Court and it is on their so doing for that Court to consider whether the interpretation of the word 'workmen' as given by the Industrial Court and the orders of the U. P. Government based on it is or is not correct.

I am referring to this aspect of the case as, in my opinion, in exercising our writ jurisdiction under Article 226 in cases where writs of 'certiorari' or 'prohibition' are called for, it is incumbent on us to bear in mind that for a wrong interpretation of law by a quasi-judicial tribunal or court the Constitution has provided in many cases a remedy which cannot be described as inadequate merely because the right to grant special leave to appeal is completely discretionary with the Supreme Court.

11. For the reasons given above, I would hold that the petitions are not maintainable and would dismiss them. I would assess costs to opposite party No. 1 which is the only party which has appeared before us at Rs. 200/- in each case.

BY THE COURT :

12. These petitions under Article 226 of the Constitution are not maintainable and are dismissed with, costs to the Opposite Party No. 1, the Government of the State of Uttar Pradesh, which was the only party which appeared before us to contest these writ petitions. We assess the costs at Rs. 200/- in each case.