M/S Rahman Industries Pvt.Ltd vs State Of Up And Ors on 18 January, 2016

Equivalent citations: AIR 2016 SUPREME COURT 551, 2016 (12) SCC 420, 2016 LAB. I. C. 1296, 2016 (2) ALJ 189, (2016) 149 FACLR 6, (2016) 2 LAB LN 22, (2016) 2 PAT LJR 198, (2016) 148 FACLR 976, (2016) 1 SCT 552, (2016) 5 SERVLR 322, (2016) 2 SCALE 91, (2016) 2 JLJR 89, (2016) 3 SERVLJ 47, (2016) 2 ALL WC 1603, (2016) 1 CURLR 643, 2016 (1) KLT SN 121.1 (SC), (2016) 2 BOM CR 84

Bench: Rohinton Fali Nariman, Kurian Joseph

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 286 OF 2016
(Arising out of SLP(C) No.8906 of 2011)

M/S RAHMAN INDUSTRIES PVT. LTD. … APPELLANT (S)

VERSUS

STATE OF U.P. AND OTHERS … RESPONDENT (S)

J U D G M E N T

KURIAN, J.:

Leave granted.

The appellant challenged the award dated 27.08.2010 passed under the provisions of the Timely Payment of Wages Act, 1978 and the recovery before the High Court leading to the impugned judgment dated 09.02.2011. The High Court found that the order passed by the Labour Court was without jurisdiction, and hence, the impugned orders were quashed. However, it was clarified that the judgment of the High Court did not mean that the workmen was left without any remedy. The question was only on invocation of proper remedy before the appropriate forum. And thus, it was directed that in case, any such matter is brought before the Government, the Government will refer it for adjudication before the Labour Court. To quote:

"However, quashing of the orders under the Timely Payment of Wages Act, 1978 by this Court will not mean that the claim of the workmen has been rejected in any manner. The Court has not given any finding on the rights of the workmen or the amount of wages which had to be adjudicated by proper forum. The opposite party No. 6 and the workmen will be at liberty to approach the proper forum under the Payment of Wages Act, 1936 or any other forum under the Payment of Wages Act, 1936 or any other forum which they deem fit in the facts and circumstances of the case. It is also provided that in case matter is brought before the government it will refer it for adjudication at the earliest and the Labour Court will decide the whole matter within a maximum period of four months from the date of reference." The grievance of the appellant is in a very narrow compass. It is pointed out that there is a peremptory direction by the High Court to refer the dispute raised by the workmen for adjudication, virtually taking away the discretion on the part of the Government to look into the issue as to whether there is a referable dispute at all.

We find force in the submission made by the learned Counsel. In the scheme of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), it is not as if the Government has to act as a post office by referring each and every petition received by them. The Government is well within its jurisdiction to see whether there exists a dispute worth referring for adjudication. No doubt, the Government is not entitled to enter a finding on the merits of the case and decline reference. The Government has to satisfy itself, after applying its mind to the relevant factors and satisfy itself to the existence of dispute before taking a decision to refer the same for adjudication. Only in case, on judicial scrutiny, the court finds that the refusal of the Government to make a reference of the dispute is unjustified on irrelevant factors, the court may issue a direction to the Government to make a reference. The jurisdiction of the Government under the scheme of the Act to satisfy itself as to the existence of the dispute has been the subject matter of catena of judgments of this Court, some of which have been referred to in Steel Authority of India v. Union of India[1], wherein it has been held at paragraph-18, which reads as follows:

" 18. Before adverting to the questions raised before us, we may at this juncture notice the contention of Mr V.N. Raghupathy that whereas in the reference only 26 workmen were made parties, more than 600 workmen were made parties in the writ petition and, thus, only because before the appropriate Government a demand was raised by some of the workmen contending that they were workmen of the contractors, an industrial dispute could be raised that the contract was a sham one and in truth and substance the workmen were employed by the management." In Rashtriya Chemicals and Fertilizers Limited and another v. General Employees'Association and others[2], following Steel Authority of India (supra), it has been held at paragraph-8 that ... "It is for the appropriate Government to apply its mind to relevant factors and satisfy itself as to the existence of a dispute before deciding to refer the dispute. ...".

In Telco Convoy Drivers Mazdoor Sangh and another v. State of Bihar and others[3], it has been held that on judicial review, if the court finds that the appropriate Government was not justified in not making a reference, the court may issue a positive direction to make a reference. This Court, in Sarva Shramik Sangh v. Indian Oil Corporation Limited[4], has cited almost all the previous decisions on this point with approval. The High Court has, in the impugned order, denied the jurisdiction vested in the Government in the scheme of the Act to examine a case for the purpose of satisfying itself as to whether there exists a dispute for referring to the Labour Court/Industrial Tribunal for adjudication. The High Court has issued a mandatory direction in the very first instance to refer the dispute, if any, raised by the workmen for adjudication before the Labour Court. That is against the scheme of the Act as we have seen from the legal position settled by this Court. We, hence, set aside the impugned order to the extent that there is a mandatory direction for referring the issues raised by the workman for adjudication. However, we make it clear that the Government must examine whether a dispute exists or not, and in case it is so satisfied, it should refer the same for adjudication before the Labour Court. Needful should be done within a period of three months from the date on which the issue is raised by the workmen.

The appeal is allowed to the above extent. There shall be no orders as to costs.

... ... J. (KURIAN JOSEPH)
.....J. (ROHINTON FALI NARIMAN) NEW DELHI;

JANUARY 18, 2016.

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[1] (2006) 12 SCC 233
[2] (2007) 5 SCC 273
[3] (1989) 3 SCC 271
[4] (2009) 11 SCC 609

REPORTABLE