

## **Workmen, United Workers' Union vs Employers In Relation To The Management ... on 23 August, 1984**

**Equivalent citations: 1984RLR387, 1984(2)SCALE224, 1984SUPP(1)SCC387, 1985(17)UJ99(SC)**

**Bench: A. Varadarajan, D.A. Desai**

### **ORDER**

1. Civil Appeal No. 6023 of 1983 was disposed of by this Court as per its order dated August 4, 1983.
2. This order has given rise to two petitions: one for taking action against the officers in employment of the respondent for allegedly committing contempt of the court and the second for directions.
3. The central question raised in the appeal was: whether the award dated June 27, 1974 of the Central Government Industrial Tribunal No. 1, Dhanbad in Reference No. 32 of 1972 as interpreted by the order of the Tribunal dated June 4, 1972 under Section 36-A of the Industrial Disputes Act, 1947 (award for short) would apply to and cover the workmen of Lapanga Colliery. This question arose in the context of a dispute whether the award based on a settlement between the parties to the dispute covered the workman employed in Saunda D. Colliery and Lapanga Colliery.
4. It was conceded that the award based on settlement between the parties covered workmen of Saunda D. Colliery. The narrow and the limited dispute raised before this Court in the appeal was: whether the same award also applied to cover the workmen of Lapanga Colliery ?
5. After the appeal was heard on different days, Mr. Lal Narain Sinha, appearing on behalf of the respondent on August 4, 1983 fairly stated that the respondent management would agree to extend the coverage of the award to the workmen employed in Lapanga Colliery. The statement made by Mr. L.N. Sinha was reproduced in the order of this Court disposing of the appeal. It reads as under :

Respondent Management agrees to implement the terms of the award dated June 27, 1974 of the Central Govt. Industrial Tribunal No. 1, Dhanbad in Reference No. 32 of 1972 as interpreted by the order of the Tribunal dated June 4, 1972 under Section 36-A of Industrial Disputes Act in respect of the eligible workmen of Lapanga Colliery who were there at the date of the said award.

6. This concession in a way disposed of the dispute between the parties because the only issue in the appeal was whether the workmen who were in the employment of Lapanga Colliery on the date of the award would be covered by the award. In other words, whether they were entitled to the benefits of the award. Mr. L.N. Sinha on behalf of the respondent conceded that the management accepts the position that the workmen of Lapanga Colliery on the date of the award would be governed by the award and the management will implement the award in respect of all those workmen.

7. While disposing of the appeal, another statement made by Mr. Sinha was taken note of that so far as the workmen employed by the Saunda D. Colliery are concerned, the award based on settlement has been fully implemented.

8. It is now contended on behalf of the appellant that all those workmen who were in the employment of Lapanga Colliery have not been given the benefit of the award which according to the concession made by the management and recorded by this Court applied to them. Mr. Garg, learned Counsel wanted us to undertake an examination in respect of certain workmen whose names were mentioned at the hearing that they were in the employment of the Lapanga Colliery at the relevant time and would therefore, be entitled to the benefit of the award upon the concession made by the respondent and recorded by this Court and yet they have been denied the benefit of it, on an untenable plea that they were not the workmen of the Lapanga Colliery at the relevant time. We are not inclined to undertake this exercise. However, a very fair suggestion came from Mr. L.N. Sinha which shows a reasonable way to settle the dispute. It was suggested that this Court may direct the Central Government Industrial Tribunal No. 1, Dhanbad upon an application made to it to examine whether the workmen alleging to be the workmen of Lapanga Colliery at the relevant time who now claim the benefit of the award herein-above referred to, as interpreted by the Tribunal were the workmen entitled to the benefit of the award and would be covered and governed by the award. It was however, stated that those workmen who now claim the benefit of the award must show to the satisfaction of the Tribunal that they were the workmen of Lapanga Colliery on the relevant date i.e. on the date of the award. This is a fair suggestion.

9. We accordingly direct that the appellant-Union shall make an application within eight weeks to the Central Government Industrial Tribunal No. 1, Dhanbad setting out the names of the workmen who according to the appellant-Union were the workmen in employ of the Lapanga Colliery on the date of the award in Reference No. 32 of 1972. After giving an opportunity to both the parties, the Tribunal shall determine whether the workmen who now claim the benefit of the award were the workmen of the Lapanga Colliery on the date of the award and would therefore, be entitled to the benefit of the award. The Tribunal would be entitled to make consequential orders.

10. Mr. Garg, next contended that even though Mr. L.N. Sinha very fairly stated that so far as Saunda D. Colliery workmen were concerned, the award based on settlement has been fully implemented, yet it now transpires that number of workmen whose names were mentioned at the hearing of the petition, who would be entitled to the benefit of the award, have been denied the same. After so stating, the limited prayer which Mr. Garg made was that this Court may clarify that the statement of Mr. Sinha recorded by this Court does not constitute judicial adjudication of the Court so that it can be said that the point in dispute is concluded by the decision of this Court.

11. Contesting the position as canvassed for by Mr. Garg on behalf of the appellant, Mr. L.N. Sinha pointed out that there was no dispute before this Court at the time of the hearing of the appeal with regard to any workmen employed by Saunda D. Colliery. In support of this contention, it was further pointed out that the High Court in its Judgment had recorded that 'the parties to the reference (Reference No. 32 of 1972) namely, Management of Saunda D. Colliery and their workmen amicably settled the dispute out of the court and a memorandum was filed before the Tribunal'. It was pointed

out that this finding of the High Court was never questioned in appeal before this Court and therefore, this Court cannot now undertake the examination of a contention which was not available at the time of the disposal of the appeal in which the present misc. petitions have been filed. From a purely technical point of view, the contention has merit. There was no dispute before this Court at the time of the hearing of the appeal about the workmen of Saunda D. Colliery having not been given or otherwise the benefit of the award based on settlement. Therefore, one can say that the taking note of the statement of Mr. L.N. Sinha at the time of disposing of the appeal that so far as workmen of Saunda D. Colliery are concerned, the award has been fully implemented, by itself neither bars nor furnishes a ground for any contention flowing from that statement. But if it is contended that taking note of the statement tantamount to an adjudication by this Court and therefore, any enquiry in that behalf is barred, the contention is without merits. There was no adjudication by this Court on the question whether the award based on settlement was fully implemented by the respondent management. As there was no contention therefore, there was no adjudication. The statement recorded in the order of this Court cannot conclude the matter against the workmen of Saunda D. Colliery that the award has been implemented in its entirety and nothing requires to be done. It would be open to the Union or the workmen of Saunda D. Colliery to seek appropriate relief in respect of implementation of the award, if it has not been so done. If the Union seeks relief in this behalf the same cannot be denied on the ground that the point is concluded by the decision of this Court.

12. With the clarifications herein made, both the Civil Misc. Petitions are disposed of with no order as to costs.