Supreme Court of India
Hindalco Industries Ltd vs Union Of India on 16 December, 1993
Equivalent citations: 1994 SCC (2) 594 JT 1993 Supl., 323
Author: K Ramaswamy
Bench: Ramaswamy, K.

PETITIONER:
HINDALCO INDUSTRIES LTD

Vs.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT16/12/1993

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
RAY, G.N. (J)

CITATION:
1994 SCC (2) 594 JT 1993 Supl. 323
1993 SCALE (4)666

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by K. RAMASWAMY, J.- Special leave granted.

2. The appellant-company manufactures Aluminium metal and its semis.The principal raw material is Bauxite. The appellant has its Bauxite mines at Amarkantak, District Sahdol in Madhya Pradesh. It consigns the ore at Pandra Road for carriage to Renukoot siding through the railway route via Katni-Murwara-Singrauli covering South Eastern Railway from Pandra Road to Katni-Murwara, a distance of 217 km; Central Railway Katni-Murwara to Singrauli 407 km and Eastern Railway via Singrauli to Renukoot 90 km; in total 714 km. Later, Katni-Murwara to Balli, a new railway line was laid connecting Singrauli. The Bauxite ore was being carried from Pandra Road via Katni-Murwara-Balli-Singrauli to Renukoot railway siding. The distance though was reduced to 568 km the freight charges for physical distance of 714 km at the rate of Rs 13.75 per quintal per km was continued to be charged and later was increased to Rs 16.57 per quintal per km with effect from December 1, 1986, the consequential inflated rate was at 55%. The appellant, therefore, laid the

complaint under Section 36(b) of the Railways Act 24 of 1989, for short 'the Act', seeking :

(i) to declare that the rates at present charged for Bauxite from Pandra Road to Renukoot on an inflated distance of 714 km is wholly unjust and unreasonable;

(ii) to direct the Railways to charge reasonable rates on the basis of the actual distance of 568 km; and

(iii) to give such other relevant relief as the Tribunal deems fit in the circumstances of the case.

3. Though the respondent-Railways justified the levy of the freight charges at 714 km distance the Railway Rate Tribunal by its judgment dated March 3, 1992 declared that, "the continued levy on freight rate for the movement of complainant's traffic in Bauxite from Pandra Road to Renukoot for a distance of 714 km by inflating the distance between Katni and Singrauli by 55% is unreasonable; and the respondent shall levy the freight charges for the complainant's traffic on the basis of the actual distance only. This order will take effect from the date of the order". The respondent allowed the order to become final. The appellant, though had the main relief, filed this appeal seeking the relief from the date of the complaint, namely March 10, 1987.

4.Mr K.K. Venugopal, learned senior counsel for the appellant contended that the Tribunal having found that the imposition of rate on the inflated distance being unreasonable, ought to have granted the relief from the date of the complaint. It is admitted by the Railways that the corum to decide the complaint was not filled by appointing either the Chairman or the Member of the Tribunal from November 11, 1987 to May 18, 1991 and the resultant delay in adjudication. The finding that there is no proof of hurt by the appellant is not a relevant circumstance to deny the relief to the appellant. He placed strong reliance on Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.1

5. The question, therefore, is whether the Railway Rate Tribunal has committed any error of law in confining the relief only from the date of the judgment. Section 36 of the Act provides that, "any complaint that a railway administration - (a) ... (b) is charging for the carriage of any commodity between two stations a rate which is unreasonable; or (c) is levying any other charge which is unreasonable, may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter". Section 38 confers on the Tribunal that it "shall have the powers of a civil court under the Code of Civil Procedure, 1908" for the purposes of taking evidence on oath, enforcing the attendance of witnesses, etc. including the power to review and 1 (1947)2 All ER 680 shall be deemed to be a civil court for all purposes of Section 195 of the Code of Criminal Procedure, 1973. The Tribunal "shall also have the power to pass such interim and final orders as the circumstances may require, including orders for the payment of costs".

6. It is seen that the appellant sought for declaratory relief that the rates being charged are "wholly unjust and unreasonable" and for a direction to the railways to charge "reasonable rates" on the basis of actual distance of 568 km together with other consequential relief. It is to be remembered that the relief otherwise cognizable by civil court of competent jurisdiction under Section 9 of the

CPC has been statutorily conferred on the Railway Rates Tribunal with powers of a civil court to decide the claims under the Act. Order VII Rule 7 CPC provides that every plaint shall state specifically the relief which the plaintiff claims either simply or in the alternative, and it shall not be necessary to ask for general or other relief which may always be given as the court may "think just" to the same extent as if it had been asked for, and the same rule shall apply to any relief claimed by the defendant in his written statement. Order II Rule 2 enjoins to claim the relief in respect of a cause of action and under clause (3) of Order II Rule 2, if he omits to seek the relief, except with the leave of the court, he shall be precluded thereafter for any relief so omitted.

7. It is settled law that it is no longer necessary to specifically ask for general or other relief apart from the specific relief asked for. Such a relief may always be given to the same extent as if it has been asked for provided that it is not inconsistent with that specific claim which the case raised by the pleadings. The court must have regard for all the relief and look at the substance of the matter and not its forms. It is equally settled law that grant of declaring relief is always one of discretion and the court is not bound to grant the relief merely because it is lawful to do so. Based on the facts and circumstances the court may on sound and reasonable judicial principles grant such declaration as the facts and circumstances may so warrant. Exercise of discretion is not arbitrary. If the relief asked for is as of right. something is included in his cause of action and if he establishes his cause of action, the court perhaps has been left with no discretion to refuse the same, But when it is not as of right, then it is one of the exercise of discretion by the court. In that event the court may in given circumstances grant which includes 'may refuse' the relief. It is one of exercising judicious discretion by the court. Same consideration would apply to the causes under the Act and the Tribunal has such discretion. The Tribunal, while keeping justice, equity and good conscience at the back of its mind, may when compelling equities of the case oblige them, shape the relief consistent with the facts and circumstances established in the given cause of action. Any uniform rigid rule, if be laid, it itself turns out to be arbitrary. If the Tribunal thinks just, relevant and germane, after taking all the facts and circumstances into consideration, would mould the relief, in exercising its discretionary power and equally would avoid injustice. Likewise when the right to remedy under the Act itself arises on the presence or absence of certain basic facts, at the time of granting relief, may either grant the relief or refuse to grant the same. It would be one of just and equitable exercise of the discretion in moulding the ancillary relief. It is not as of right. In Associated Provincial Picture Houses Ltd. case' under Sunday Entertainments Act, 1932, the licensing authority while granting permission to exhibit cinematographs, imposed certain conditions, prohibiting the children under age of 15 years to be admitted in the theatre. It was challenged as being arbitrary. Dealing with the discretionary power of the licensing authority, the Court of Appeal held that the law recognised certain principles on which discretion must be exercised but within the four comers of those principles. The discretion is not absolute one. The exercise of such a discretion must be a real exercise of the discretion. If in any statute conferring the jurisdiction, there are to be found, expressly or by implication, matters to which the authorities exercising the discretion ought to have regard, then, in exercising the discretion, they must have regard to those matters. Conversely, if the nature of the subject- matter and the general interpretation of the Act make it clear that certain matters would not be germane to the matter in question, they must disregard those matters. Expressions have been used in cases where the powers of local authorities came to be considered relating to the sort of thing that may give rise to interference by the court. Bad faith, dishonesty - those, of course, stand by themselves,

unreasonableness, attention given to extraneous circumstances, disregard of public policy, and things like that have all been referred to as being matters which are relevant for consideration. The discretion must be exercised reasonably. A person entrusted with a discretion must direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to the matter that he has to consider. If he does not obey those rules, he may truly be said to be acting unreasonably.

8. There lies a distinction between the administrative authorities exercising discretionary jurisdiction and the court or the quasi-judicial Tribunal deciding the lis. In the latter case discretion has been given to the court or the Tribunal to mould the ancillary relief. The discretion is to be exercised with circumspection consistent with justice, equity and good conscience, keeping always the given facts and circumstances of the case.

9. Undoubtedly there was delay in constitution of the proper corum of the Tribunal, to discharge its function under the Act and thereafter there would be consequential delay in disposal of the cause. These cannot be characterised to be the court causing hurt to the litigant but of inevitable incidents of the adjudication and that by itself is not a ground to grant or ought to be granted the relief asked for. Nevertheless, if as stated earlier, the Tribunal feels that the relief may be just and equitable, it is always open to the Tribunal to grant it which includes power to refuse to grant the relief. In this case while holding that the continued levy of freight rate on Bauxite at old distance of 714 km is unreasonable and directed to charge the freight on the basis of the actual distance only, the Tribunal granted the relief from the date of the judgment. Therefore, it being a discretionary relief and the Act having left that discretion to the Tribunal, it appears to have felt that it would be just to give relief from the date of judgment to meet the ends of justice. The appellant is not, as of right, entitled to the relief. No doubt the statute postulates that the relief cannot be granted anterior to the date of the complaint. That does not mean that the Tribunal is always bound to grant relief from the date of the complaint. By operation of sub-section (2) of Section 38 the Tribunal has been invested with the discretion to grant such relief as is warranted. The Tribunal having thus exercised the discretion and limited the relief from the date of the judgment, it cannot be termed as illegal. It cannot also be held that it arbitrarily or unjustly exercised the discretion. Accordingly we do not find any compelling reasons warranting interference under Article 136. The appeal is dismissed, but without costs.