

Supreme Court of India

Swadeshi Cotton Mills vs Industrial Tribunal (Iii) on 7 September, 1993

Equivalent citations: 1994 SCC, Supl. (2) 563 1993 SCALE (4)225

Author: P Sawant

Bench: Sawant, P.B.

PETITIONER:

SWADESHI COTTON MILLS

Vs.

RESPONDENT:

INDUSTRIAL TRIBUNAL (III)

DATE OF JUDGMENT 07/09/1993

BENCH:

SAWANT, P.B.

BENCH:

SAWANT, P.B.

YOGESHWAR DAYAL (J)

CITATION:

1994 SCC Supl. (2) 563 1993 SCALE (4)225

ACT:

HEADNOTE:

JUDGMENT:

## ORDER

1. The twenty-four employees involved in the present industrial dispute are, variously peons, gardeners and sweepers, working at the Head Office of the appellant-mills. Out of them, fifteen workmen had earlier raised an industrial dispute demanding wages and dearness allowance as was paid to the workmen in the factory of the mills. By an award dated October 30, 1982, the Industrial Tribunal granted the wages and dearness allowance to them on par with those payable to the workmen in the factory. The appellant-mills thereafter extended the same wages and dearness allowance as awarded by the Tribunal to the rest of the present twenty- four workmen.

2. It appears that misinterpreting the award in question, the appellant-mills also extended the other service conditions as were applicable to the workmen in the factory to the present employees and withdrew the corresponding other service conditions which they were enjoying prior to the award of 1982. Aggrieved by the withdrawal of the said other service conditions, the workmen raised the

present industrial dispute claiming that the mills had committed an illegal change within the meaning of Section 4-1 of the U.P. Industrial Disputes Act, 1947 ('the Act'). The State Government made a reference of the said dispute to the Industrial Tribunal in the following terms:

"Whether not giving the wages on monthly basis, 40 days' leave, 2 months' advance salary and benefit of the uniform by the employer to the 24 workmen as mentioned in the list, is justified and legal? If not, then what benefit/relief are admissible to the concerned employees and with what particulars."

3.The Tribunal found that the benefits which the employees were getting prior to the award of 1982 were more advantageous and since they were withdrawn, there was an illegal change within the meaning of Section 4-1 of the Act, and struck down the said change in the service conditions. The High Court in writ petition confirmed the award of the Tribunal. Hence the present appeal.

4.Shri Sangh, learned counsel appearing for the appellant-mills contended that there was no illegal change within the meaning of Section 41 of the Act and the Mills were justified in giving to the concerned employees all the service conditions which were available to the factory workmen since the 1982 award had treated the present employees as deputationists from the factory to the Head Office.

5.On the admitted fact that the award of 1982 had only extended the wages and dearness allowance of factory workmen to the present employees and no other conditions, the appellant-mills were not justified in withdrawing the other service conditions of the present employees and in substituting the corresponding service conditions available to the factory workmen. The present dispute was raised by the employees contending that they should be made available the same service conditions (other than the wages and dearness allowance), which were available to them prior to 1982 award. The Tribunal as well as the High Court have found that the change effected by the appellantmills was illegal and hence the earlier service conditions (other than the wages and dearness allowance) should be restored to the employees. As has been pointed out earlier, the industrial dispute which led to 1982 award was raised only for claiming the wages and dearness allowance which were payable to the factory workmen and for no other benefits. The award of 1982 also gave to the employees only the wages and dearness allowance as was paid to the factory workmen and gave no other benefit. However, relying only on one sentence of the award, viz., that the employees in question were deputationists from the factory to the Head Office, the appellant-mills substituted the other service conditions as well for the earlier corresponding service conditions enjoyed by the employees. That change was neither warranted by the award nor by the equity. We are, therefore, satisfied that the present demand was justified also on the terms of the earlier award. In the circumstances, we maintain the award of the Tribunal as well as the impugned order of the High Court and make it clear that the employees in question would be entitled to all service conditions other than the wages and dearness allowance, as were available to them prior to 1982. The appeal is disposed of accordingly with costs throughout.