
(1970) 02 CAL CK 0024
In the Calcutta High Court
Case No : Civil Revision No. 3631 of 1966

Amiya Kumar Sengupta

APPELLANT

Vs

General Manager, Eastern Railway

RESPONDENT

Date of Decision : 13-02-1970

Acts Referred:

Citation : (1971) 2 ILR (Cal) 411

Hon'ble Judges : P.N. Mookerjee, J;Amiya K. Mookerji, J

Bench : Division Bench

Advocate : Noni Coomar Chakravorti, Chunilal Ganguly and Sibendra Nath Sengupta, for the Appellant;Smriti Kumar Roy Chowdhury and Amiya Bikash Dutta Sarma for Opposite Parties Nos. 1, 2 and 3, Sisir Kumar Bose, for Opposite Parties Nos. 4 and 5 and Madhusudan Banerjee, for Opposite Parties Nos. 7 and 8, for the Respondent

Judgement

P.N. Mookerjee and Amiya K. Mookerji, JJ.—In this Rule we are concerned with a dispute between the workmen of the Lillooah Workshop of the Eastern Railway and the management of the said Railway. The proceedings in question was one under the Payment of Wages Act and related to the workmen's claim for delayed or deducted wages for the period December 2, 1963 to December 15, 1963. The Authority under the Payment of Wages Act allowed the claim so far as the present Petitioners were concerned with compensation to the extent of two times the deducted wages.

2. On appeal, the said decision was reversed by the Appellate Authority upon the view that, in the facts of this case, the Authority under the Payment of Wages Act had not jurisdiction to entertain the workmen's claim.

3. The Petitioners (the aggrieved workmen) have now obtained the present Rule against the said appellate decision.

4. The dispute between the parties really turns on the legality or otherwise of the Lock out which was declared by the management from December 2, 1963 to

December 15, 1963. According to the management, the workmen concerned were on illegal strike from November 26, 1963, which obliged and entitled the management to declare a lock out on and from-December 2, 1963. It appears, however, from the materials on record,, as held by the Authority under the Payment of Wages Act, that whatever might have been the position on any earlier date there was no strike on November 30, 1963, on which date the workmen concerned did their full duty and that, accordingly, when the next date,, namely December 1, 1963, was an admitted holiday there was no valid or legal ground for declaring a lock out on and from December 2, 1963. This finding of the Authority under the Payment of Wages Act has not been upset by the Appellate Authority and, indeed, it cannot be upset on the materials on record, but the Appellate Authority has dismissed the Petitioners-workmen's claim upon the ground that the basic dispute between the parties related to the contract of service and that, on this part of the case, the parties were relying on different contracts for their purposes and the said dispute was not one entertain able under the Payment of Wages Act so as to clothe the Authority thereunder with jurisdiction to entertain the disputed claim. Apart from the fact that, even the above dispute would not be one, which would necessarily rob the Authority under the Payment of Wages Act of his jurisdiction under the said Act, the matter has been simplified in the instant case by the Petitioners" accepting before us the contract of 48 working hours per week as set up by the management opposite party. The so-called bar, therefore, to the jurisdiction of the Authority under the Payment of Wages Act, as found by the learned Appellate Authority, would immediately disappear and, as even on that basis, the basic fact that there was no strike on November 30, 1963, would not be altered, the lock out declared on and from December 2, 1963, would be illegal, the intervening date, namely December 1, 1963, being admittedly a holiday. The Petitioners" claim, therefore, so far as deducted wages are concerned, must be allowed as done by the Authority under the Payment of Wages Act, and the said. Authority"s granting of compensation at two times the said deduction, not being unreasonable, must also be upheld.

5. A point was raised that the Petitioners" claim for the lock out period cannot be a claim for wages but, in our opinion, the concurrent view of the two Tribunals below, rejecting this contention for the illegal lock out the Petitioners would have earned the amount in question as "remuneration" under this "contract of service and, accordingly, the same would come within the relevant definition of wages in the Payment of Wages Act.

6. In the premises, this Rule will succeed to the extent that the decision of the lower Appellate Tribunal would be set aside and that of the Authority under the Payment of Wages Act would be restored, the Petitioners" claim (including compensation) to the extent allowed by the said Authority being upheld by us.

7. There will be no order for costs.