
(2003) 12 AP CK 0080
In the Andhra Pradesh High Court
Case No : W.A. No. 1304 of 2003

Andhra Printers Ltd.

APPELLANT

Vs

Chairman, Industrial Tribunal-1 and Others

RESPONDENT

Date of Decision : 31-12-2003

Acts Referred:

Industrial Disputes Act, 1947 — Section 18(3)

Citation : (2004) 1 ALT 606 : (2004) 2 LLJ 1140

Hon'ble Judges : K.C. Bhanu, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : V. Hariharan, for the Appellant; K. Balagopal, for the Respondent

Judgement

K.C. Bhanu, J.—This writ appeal is directed against the order dated June 27, 2003, made in W.P. No. 12305 of 2003 by a learned single Judge of this Court confirming the order passed by the Industrial Tribunal-I, Hyderabad, impleading the appellant herein as one of the respondents in Industrial Dispute No. 39 of 2001.

2. The learned Judge noticed the relevant facts succinctly and found that mere impleadment of the appellant herein as a party respondent in the Industrial Dispute in no way alters the scope of the reference. The learned Judge also prima facie found that there is a close relationship between the two organizations i.e., the appellant and the third respondent herein and, as such, the order of the Tribunal directing the impleadment of appellant herein does not suffer from any error requiring the interference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

3. It is the specific case of the union that the third respondent is nothing, but a facade and fiction brought into being by the appellant to camouflage the fact that the appellant is, in fact, the employer of the so-called employees of the third respondent. We do not propose to dilate further on this aspect of the matter since any observation by this Court at this stage may cause prejudice to the

claim of either of the parties. We have only noticed the said assertion of the respondent-union in order to appreciate the nature of the claim put-forth by the union before the Industrial Tribunal of impleading the appellant herein as one of the respondents to the disputes.

4. The Industrial Tribunal, after an elaborate consideration of the matter, found that it is just and necessary to bring the appellant herein as a party respondent for an effective adjudication of the dispute referred to it by the Government.

5. We are not impressed by the submissions made by the learned counsel for the appellant that the appellant could have been directed to appear in the proceedings and remain present during the hearing of the reference on the minutes instead of impleading the appellant as one of the party respondents to the dispute itself. The learned counsel contends that such impleadment may alter the nature and scope of the reference itself. Reliance has been placed by the learned counsel for the appellant in support of his submission on the decision reported in *Hochtief Gammon Vs. Industrial Tribunal, Bhubaneshwar, Orissa and Others*, . In our considered opinion, the judgment upon which reliance has been placed by learned counsel for the appellant, in no manner supports the case of the appellant.

6. It is true that the Tribunal in exercise of its jurisdiction in a given case, may summon party, to remain present during the hearing of the reference. But it does not mean that the Tribunal has no jurisdiction to order impleadment of a party to the dispute pending before it for an effective adjudication of the matter.

7. In the very same judgment upon which reliance has been placed by the learned counsel for the appellant, it is observed by the Supreme Court that whenever it appears to the Tribunal that a party to the industrial dispute named in the order of reference does not completely and adequately represent the interest either on the side of the employer, or on the side of the employee, it may direct that other persons should be joined who would be necessary to represent such interest. The Supreme Court further observed that "that test always must be, is the addition of the party necessary to make the adjudications itself effective and enforceable? In other words, the test may well be, would the non-joinder of the party made the arbitration proceedings ineffective and unenforceable? It is in the light of this test that the implied power of the Tribunal to add parties must be held to be limited."

8. The Industrial Tribunal, in the case on hand found that the appellant herein is a proper and necessary party for an effective adjudication of the dispute and accordingly in its discretion thought it fit to allow the application filed by the second respondent-union for impleading the appellant herein as a party respondent.

9. A bare reading of Section 18(3)(b) of the Industrial Disputes Act, 1947 itself makes it clear that whenever the parties are summoned to appear in the proceedings as parties to the dispute, the Tribunal may record its opinion that

they were so summoned without proper cause. Whether they were properly summoned or not to appear in the proceedings as parties to the dispute, it required to be gone into by the Tribunal and pronounce its verdict at the end of the conclusion of the proceedings. Precisely, for that reason, the Industrial Tribunal made an effort only to find out whether a prima facie case has been made out to direct the appearance of the appellant in the proceedings as a party to the dispute and accordingly found that it is just and necessary to implead the appellant herein as a party respondent to the dispute for an effective adjudication of the dispute referred to it for its consideration.

10. It is needless to clarify that mere impleadment of the appellant herein as a party respondent to the dispute has not resulted in causing any prejudice of whatsoever nature to the appellant herein. It is always entitled to plead and establish that its summoning as a party to the dispute is without proper cause. It should always be open to the appellant for such purposes and in order to establish its case to lead evidence and satisfy the Tribunal that it ought not to have been summoned as a party to the dispute.

11. It is very well settled and needs no restatement in our hand that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India does not normally interfere with such interlocutory orders as the one under challenge in this writ appeal. The jurisdiction of this Court under Article 226 of the Constitution of India is not normally exercised to interdict the proceedings on the file of the Industrial Tribunal. Industrial peace and tranquillity itself requires speedy and effective adjudication of the disputes raised by the parties. No exceptional case, as such, has been made out by the appellant requiring or interference deviating from our self imposed fetter not to interfere with the interlocutory order passed by the Tribunal.

12. For the aforesaid reasons, we do not find any merit in this appeal. We are in complete agreement with the view taken by the learned single judge in dismissing the writ petition. The writ appeal is accordingly dismissed. The interim order earlier granted by this Court is accordingly vacated.

13. It is needless to observe that the observations made by the learned single judge as well as the observations, if any, made in this order shall have no bearing on the merits of the claim put forth by the appellant as well as the respondents. It shall always be open to the Tribunal to record its finding after enquiry and trial and at the end of the conclusion as to whether the appellant herein has been summoned as a party to the dispute without any proper cause.

14. The Industrial Tribunal is directed to dispose of the Industrial Dispute itself within a period of four weeks from the date of the receipt of the order.