
(1991) 07 P&H CK 0077
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 664 of 1987

Bennett, Coleman and Co. Ltd.

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 31-07-1991

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 33B

Citation : (1992) 101 PLR 80

Hon'ble Judges : Jawahar Lal Gupta, J

Bench : Single Bench

Advocate : Pawan Mutneja, for the Appellant; J.R. Mittal and Arihant Jain, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—C.W.P. No. 664 of 1987 and 3295 of 1986 shall be disposed of by this order. Facts as stated in C.W.P. No. 664 of 1987 alone may be noticed.

2. The petitioner is aggrieved by the ex parte award dated May 20, 1985 (Annexure P-12), given by the Labour Court, Bhatinda. Its request for setting aside the ex parte order having been declined, the petitioner has approached this Court through the present writ petition. A two-fold challenge has been made to the Award. Firstly, it has been averred that the State of Punjab had made a reference of the dispute between the petitioner and respondent No. 3 to the Labour Court, Patiala. The case was suo motu transferred by the said court to Labour Court, Bhatinda. It is averred that the Labour Court had no jurisdiction to transfer the case. A copy of the order dated August 1, 1984 passed by learned Labour Court, Patiala in this behalf has been produced as Annexure P-8, It is contended that the order of transfer being a nullity, all subsequent proceedings are without jurisdiction and are vitiated.

3. On behalf of the respondents, the factual position has not been disputed. It has, however, been contended that the respondent-workman was living at

Bhatinda. The cause of action had accrued at Bhatinda. Reference would have normally been made to the Labour Court at Bhatinda. However, since there was no Labour Court at Bhatinda on February 16, 1983, when the appropriate Govt. had made the reference, the action of the Labour Court in transferring the proceedings to Labour Court, Bhatinda was wholly fair and equitable.

4. I have heard Mr. Pawan Mutneja, learned counsel for the petitioner and Mr. J.R. Mittal, learned Counsel for the respondents.

5. Relevant provision in the Industrial Disputes Act, 1947 is contained in Section 33B. It reads as under :-

"Section 33B.--Power to transfer certain proceedings.--(1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceedings under this Act pending before a Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceedings and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred.

Provided that where a proceeding u/s 33 or Section 33A is pending before a Tribunal or National Tribunal the proceeding may also be transferred to a Labour Court.

(2) Without prejudice to the provisions of Sub-section (1), any Tribunal or National Tribunal, if so authorized by the appropriate Government may transfer any proceeding u/s 33 or Section 33A pending before it to any one of the Labour Courts specified for the disposal of such proceedings by the appropriate Government by notification in the official Gazette and the Labour Court to which the proceeding is so transferred shall dispose of the same."

A perusal of the above provision would show that the power to transfer proceedings vested only in the appropriate Govt. The Labour Court has no jurisdiction at all in the matter. There is no provision under the Act authorising the Labour Court to suo motu transfer the proceedings itself to any other court. The order dated August 1, 1984 (Annexure P-8) passed by the Labour Court at Patiala was thus wholly without jurisdiction. Equally lacking in jurisdiction is the action of the Labour Court, Bhatinda in proceeding to decide a matter regarding which no reference had been made to it by the appropriate Govt. Consequently, the proceedings before the Labour Court at Bhatinda from the date of the issue of summons dated October 29, 1984 onwards were wholly without jurisdiction. All the proceedings including the award at Annexure P-12 and the orders dated January 9, 1986 and November 13, 1986, are thus vitiated. These orders are accordingly quashed. In this view of the matter, the plea taken on behalf of the respondents that the action was fair and equitable cannot be sustained. The action of the Labour Court was totally contrary to the provisions of the Act and wholly without jurisdiction. No amount of equity can be invoked to sustain it.

6. The writ petition is accordingly allowed. The impugned orders are set aside. The case is remanded to the Labour Court Patiala for further proceedings.

7. In case the appropriate Government feels that the conditions postulated in Section 33B are satisfied, it may examine the desirability of transferring the proceedings to any other Labour Court. It will, however, do so in accordance with law. In the circumstances of the case, the parties are left to bear their own costs. The parties through their counsel are directed to appear before the Labour Court at Patiala on September 2, 1991.