

(2007) 08 AHC CK 0002

In the Allahabad High Court

Case No : Special Appeal (Defective) No. 729 of 2007

Bharat Electricals, Udyog Nagar, Kanpur

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 30-08-2007

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 3(b)

Citation : (2008) 118 FLR 897

Hon'ble Judges : H.L. Gokhale, C.J.;Anjani Kumar, J

Bench : Division Bench

Advocate : Yogesh Agarwal and D. Kumar Misra, for the Appellant; A.C. Tiwari and S.C., for the Respondent

Final Decision : Dismissed

Judgement

H.L. Gokhale, C.J.—The appeal seeks to challenge the judgment and order rendered by the learned Single Judge dated 9.7.2007, whereby he has dismissed the petitions filed by the Appellants herein. The Appellants industries herein are dealing in mechanical and electrical engineering. They were aggrieved by the State Government notification issued u/s 3 (b) of the U.P. Industrial Disputes Act, 1947 dated 15.5.2000, whereby the wages of the workmen in three different categories have been revised. The earlier notification was issued on 29.4.1989 and the wages for the unskilled employees were Rs. 700/-, for the semi-skilled Rs. 850/- and for the skilled Rs. 950/-. Now they have been revised to Rs. 2535/- for unskilled, Rs. 2785/- for semi-skilled and Rs. 3090/- for skilled, where the number of employees for the concern is between 50 to 500. Where the number of employees is above 500, it is revised to Rs. 2660/- Rs. 2925/- and Rs. 3190/- respectively.

2. As far as this Section 3 (b) is concerned, it reads as follows:

3. Power to prevent strikes, lock-outs, etc.-If, in the opinion of the [State Government] it is necessary or expedient so to do for securing the public safety

or convenience or the maintenance of public order or supplies and services essential to the life of the community or for maintaining employment, it may, by general or special order, make provision-

(a) for prohibiting, subject to the provisions of the order, strikes or lock-outs generally, or a strike or lock-out in connection with any industrial dispute:

(b) for requiring employees, workmen or both to observe for such period, as may be specified in the order, such terms and conditions of employment as may be determined in accordance with order.

This section clearly provides that if in the opinion of the State Government, it is necessary or expedient for securing the public safety or convenience or the maintenance of public order or supplies and services essential to the life of the community, or for maintaining employment, the Government is empowered to lay down the terms and conditions of employment.

3. The section itself lays down that it is the prerogative of the Government to decide on the conditions as stipulated therein.

4. Now as can be seen from the facts which are narrated above, the wages at the highest for the skilled worker which were less than Rs. 950/- have been revised between Rs. 2535 and Rs. 3190/-.

5. To a question as to what were the wages presently being paid by the industry, Mr. Agarwal, learned Counsel for the Appellants was not in a position to give any positive answer. Surely, the structure which is laid down by the Government is itself not very remarkable and the wages being laid down are between Rs. 2535-3190/-.

6. The submission of the industry that these wages are not in any way, unconciable is not borne out by any material. The aforesaid section on the other hand provides that this is a provision which is to be invoked amongst others for maintaining employment.

7. Surely the wage structure which is prescribed by the State Government in the present case is almost at the level of minimum wages to maintain employment inasmuch as even for skilled-workmen, the wages which are to be paid are just about Rs. 3000/-. If the wages are almost comparable to minimum wages, surely the Court is not expected to interfere in such wage fixation.

8. As far as this section is concerned, it has come for consideration by the Apex Court in the case of State of Uttar Pradesh and Others Vs. Basti Sugar Mills Co., Ltd., and the powers of the State Government are held to be adequate provided there is a case for such an order to be passed.

9. If the learned Single Judge has declined to interfere with the notification, he has given reasons and passed a detailed reasoned order.

10. We do not think that there is any cause to interfere with the judgment and

order passed by the learned Single Judge. The appeal is dismissed.