

(1960) 09 CAL CK 0010
In the Calcutta High Court

Blackwoods India Ltd.

APPELLANT

Vs

First Labour Court and Others

RESPONDENT

Date of Decision : 19-09-1960

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 2, 25F, 25FFF, 33C

Citation : (1961) 2 ILR (Cal) 450 : (1961) 2 LLJ 552

Hon'ble Judges : P.N. Mookerjee, J

Bench : Single Bench

Judgement

P.N. Mookerjee, J.—This rule is directed against an award and the connected proceeding under the Industrial Disputes Act, 1947. The petitioner, Blackwoods India Ltd., seeks to have the aforesaid award and proceeding quashed by an appropriate writ of certiorari and it seek further, the issue of appropriate writs of mandamus and prohibition, commanding the opposite parties to forbear and refrain from enforcing and giving effect to the said award or taking steps in that behalf and also prohibiting them from doing the same. The rule arose under the following circumstances.

2. By a notice, dated 8 May 1957, the petitioner company purported to close the Underwood Typewriters and O.E. Service Station (Eastern Division), which was described therein as an industry, on economic grounds and to terminate the services of all workers thereof with effect from the said date, namely, 8 May 1957. This termination of service was, according to the above notice, due to the aforesaid closure of the "industry" the Underwood Typewriters and O.E. Service Station (Eastern Division). This action of the company was challenged by the Workers' Union (Blackwoods Workers' Union) and the said union characterized the company's plea of economic ground as a false plea and they challenged the aforesaid closure as mala fide and the proposed termination of the workers' service as unjust, unfair and opposed to the principles of natural justice. The resulting industrial dispute was referred by the State Government to the appropriate industrial tribunal for adjudication by or under the following order:--

GOVERNMENT OF WEST BENGAL LABOUR DEPARTMENT Order No. 2223-IR;
IR/11L-288/57, Calcutta, 27 June 1957

Whereas an industrial dispute exists between Blackwoods India Ltd., 2, Mangoe Lane; Calcutta, and their workmen (service mechanics represented by Blackwoods Workers' Union, 3, Commercial Buildings. Calcutta-1), relating to the undermentioned issue, being a matter specified in the second schedule to the Industrial Disputes Act, 1947(XIV of 1947);

And, whereas, it is expedient that the said dispute should be referred to a labour court constituted u/s 7 of the Industrial Disputes Act, 1947 (XIV of 1947);

Now, therefore, in exercise of the powers conferred by Section 10 of the industrial Disputes Act, 1947 (XIV of 1947), the Governor is pleased hereby to refer the said dispute to the first labour court, constituted under notification No. 1025-IR/IR/3A-3/57, dated 5 April 1957, for adjudication.

The said first labour court shall meet at such places and on such dates as it may direct.

Issue: Is the discharge of the service mechanics, employed by the Blackwood's India Ltd., in "underwood Typewriter and O.E. Service Station" at 2, Mangoe Lane, Calcutta, by their notice, dated 3 May 1957, justified?

To what relief are they entitled?

(By order of the Governor.)

(Sd.) S.K. Banerji, Jt. Secy, to the Govt. of West Bengal.

No. 2223/2 (4)-IR--Copy forwarded for Information to Blackwoods India Ltd., 2, Mangoe Lane, Calcutta.

(Sd.)-(Illegible), Calcutta, 27 June 1957. Asst. Secretary. _____

GOVERNMENT OF WEST BENGAL LABOUR DEPARTMENT No. 2650-IR;
IR/11L-288/57, Calcutta, 23 July 1957

Corrigendum: In the "issue" mentioned in the Government of West Bengal, Labour Department No. 2223-IR/IR/11L-288/57, dated 27 June 1957, for "notice dated 3 May 1957," read "notice dated 8 May 1957."

(By order of the Governor)

(Sd.) S.K. Banerji, Jt. Secy, to the Govt. of West Bengal.

No. 2650/2 (4)-IR-Copy forwarded for information to Blackwoods India Ltd., 2, Mangoe Lane, Calcutta.

(Sd.)-(Illegible), Calcutta, 23 July 1957. Asst. Secretary.

3. The tribunal answered the reference by its award which summed up Its conclusions as follows:--

Thus to sum up, the termination of the services of these employees Is found justified and they are found entitled to compensation according to Section 25F(b) of the Industrial Disputes Act which the company must pay within a month of the publication of the award.

4. It is really the last part of the above quoted award, relating to payment of compensation, which is challenged by the petitioner. It is, obviously, not aggrieved by the other part thereof which holds that the termination of the services of the employees was justified.

5. On behalf of the petitioner Sri Sanyal has, in the main, made a twofold submission. He has contended first that there was no industrial dispute, so far as the matter of compensation is concerned, and that, accordingly the reference on this particular point, and necessarily, the award too, would be without Jurisdiction. He has urged next that the Underwood Typewriters and O.E. Service Station (Eastern Division) was a separate and independent undertaking and the closure of the said undertaking and consequent termination of the services of the employees would, therefore, attract Section 25FFF and would not fall within Section 25F, which consequently, will not apply and will not be attracted in this case.

6. I am unable to accept any of the above two contentions of Sri Sanyal. That there was an industrial dispute on the question of the termination of the services of the employees is admitted. Clearly, therefore, that dispute could be referred for adjudication to the industrial tribunal. Now, in making such references, the State Government has to act u/s 10 of the Act and, under the relevant Clause (c) thereof, the reference may well include any matter, appearing to be connected with or relevant to the dispute. The question of payment of compensation to the discharged employees Is, certainly, a matter, connected with the discharge, or with the dispute as to the same. On such connected or incidental matters, no specific industrial dispute need be raised or seems to be necessary to bring them within the scope of a valid reference. Moreover, Section 10 also permits reference, when there is apprehension of an industrial dispute and, in making the reference on the question of discharge, on which such a dispute actually exists, the appropriate Government may well apprehend a dispute as to the compensation or as to the provision, under which the said compensation is to be paid, and that accordingly, may well be included in the reference. A point has been raised by Sri Sanyal that there was no express or actual reference on this point, but the scope of the reference, certainly, included it within the clause "To what relief are they (the employees) entitled." Indeed, the matter is almost beyond argument. If the discharge Was wrongful, the employees concerned were entitled to be reinstated and such reinstatement would, then, obviously come within the said clause, relating to relief. If, on the other hand, the discharge was in accordance with law, but was, under the terms of the statute, subject to payment of compensation, as provided in Section 25F etc., that question of compensation would, plainly, be within the scope of the permissible relief and

that would immediately require, and, therefore, involve,--determination of the said compensation and thus attract the appropriate provision or provisions, under which the same is to be paid. The first argument of Sri Sanyal must, therefore, be rejected.

7. The second point raised is somewhat complicated but, in the fact of this case, I am inclined to answer this point, too, against the petitioner. On the materials before me, I feel perfectly convinced that the Underwood Typewriters and O.E. Service Station (Eastern Division) was only a section or department of the business or undertaking Blackwoods India Ltd. It was really one of the component units of the said single undertaking Blackwoods India Ltd., and it had no separate or independent existence. In this connexion Sri Sanyal drew my attention to three recent decisions of the Supreme Court, in *The Associated Cement Companies Limited, Chaibassa Cement Works, Jhinkpani Vs. Their Workmen*, ; *Management of Pratap Press, New Delhi Vs. Secretary, Delhi Press Workers' Union and Its Workmen*, and *Assam Oil Company Vs. Its Workmen*, but I do not think that any of the Said three decisions is in conflict with my above view. On the other hand, my said view receives substantial support from the second of the aforesaid decisions cited and the distinction, there pointed out, between an independent undertaking and a component unit of an undertaking justifies, upon the materials before me, the view, taken by the industrial tribunal and affirmed by me herein, namely, that the Underwood Typewriters and O.E. Service Station (Eastern Division) is only a component unit of the single undertaking Blackwoods India Ltd. I would, therefore; reject Sri Sanyal's second contention too.

8. Sri Sanyal also raised a point that the question of amplification of Section 25F or Section 25FFF is a matter for the Government or the appropriate Government and not for the industrial tribunal and, in support of this submission, he referred me to Section 33C of the Act, which provides inter alia for recovery of money, due under Chap. VA (which includes both Section 25F and Section 25FFF), through the appropriate Government. That, however, does not, in my opinion, preclude a reference of the question of compensation to the industrial tribunal, either when there is a dispute or apprehended dispute as to the particular provision which may be applicable to the particular case in the matter of such compensation, such a dispute being, clearly, an "industrial dispute" u/s 2(k) of the Act as the particular statutory provision, relating to compensation, under the relevant group of sections-(Section 25F etc.) is only a statutory condition of the employment or a matter, connected with the main industrial dispute. If there be no such dispute the matter may be dealt with u/s 33C, but, even in such a case, it may well be a matter, connected with or relevant to an industrial dispute, so as to form validly the subject or the subject-matter of reference to an industrial tribunal. In the above view, I would overrule this contention, too, of Sri Sanyal.

9. In the result, then, this rule will fail and it will be discharged. As, however, the points, raised by Sri Sanyal, had, in them, some elements of plausibility, I would

direct the parties to bear their own costs in this Court.