(1960) 03 SC CK 0033

In the Supreme Court Of India

Case No : Appeal (civil) 195 of 1959

Burn and Co. Ltd. and Others APPELLANT

Vs

Their Employees RESPONDENT

Date of Decision : 30-03-1960

Acts Referred:

Citation : AIR 1960 SC 896 : (1960) 1 FLR 245 : (1960) 2 LLJ 261 : (1960) 3 SCR 423

Hon'ble Judges : P.B. Gajendragadkar, J;K. N. Wanchoo, J;K. C. Das Gupta, J

Bench : Full Bench

Advocate : B Sen, P K Chakravarty, B N Ghosh, N C Chatterjee, D L Sen Gupta, B P Maheshwari

Final Decision : dismissed

Judgement

Wanchoo, J.—These are two appeals by special leave against the same award of the Third Industrial Tribunal, West Bengal, and shall be disposed of by this judgment. Appeal No. 195 is by Messrs. Burn and Co. Limited (hereinafter called the company) and Appeal No. 196 is by the workmen of Messrs. Burn and Co. Limited (hereinafter called the workmen). There were disputes between the company and the workmen on various matters, which were referred to the tribunal for adjudication. Of these disputes, only two now survive in the two appeals. The company's appeal is with respect to that part of the award which deals with incentive bonus to the clerical and subordinate staff while the workmen's appeal is with respect to that part of the award which deals with the cash benefit of eight Annas eight per head per working day for the period the canteen was not in operation.

2. We shall first take up the company's appeal. The company has introduced incentive bonus for manual workers including Sarkars and Checkers but there is no provision for incentive bonus to the clerical and subordinate staff. The workmen therefore claimed that these two categories should also be given incentive bonus like the manual workers and pointed out that in other concerns

this was done. The company resisted the claim on two grounds : (i) that the clerical staff got what is known as the Bengal Chamber of Commerce dearness allowance, which is higher than the dearness allowance paid to the manual workers and (ii) that the clerical staff and the subordinate staff do not actually produce anything and if they are given incentive bonus it will mean that they would be paid on the production of others, namely, the manual workers.

3. The tribunal was of the view that the fact that the clerks got the Bengal Chamber of Commerce dearness allowance was no reason for their total exclusion from the benefit of the incentive bonus scheme. It also pointed out that the subordinate staff did not get the Bengal Chamber of Commerce dearness allowance and there was no difference between their dearness allowance and the dearness allowance of the manual workers. Further the tribunal was conscious of the fact that the clerical staff and the subordinate staff do not directly produce goods but that in its opinion was no justification for their total exclusion, particularly when other comparable concerns like the Indian Iron and Steel Co. Ltd. at Burnpur, Bridge and Roof Co. (India) Limited, Howrah, and Tatas were paying incentive bonus to the clerical and subordinate staff also. It therefore ordered that the company should extend the scheme of incentive bonus to the clerical and subordinate staff also and lay down the rates and conditions for the same.

4. The main contention of the company before us is that as the clerical staff and the subordinate staff have no part in actual production they should not be given any incentive bonus, particularly as their work does not increase at all because of the increased production. It is, however, difficult to accept that there will be increase in the work of the clerical staff in particular and also of the subordinate staff because of higher production, though it may be accepted that the increase may not be in proportion to the increase of production. It is also true that the clerical staff and the subordinate staff do not directly produce goods like manual workers and that may be a reason for treating them somewhat differently in the matter of incentive bonus and that is what the tribunal seems to have done, for it has directed the company to extend the scheme of incentive bonus to the clerical and subordinate staff and to lay down the rates and conditions of the same and has not said that exactly the same rates and conditions should apply to the clerical and subordinate staff as apply to the manual workers. But there can be no doubt that economically speaking the clerical staff and the subordinate staff also take part in the production and there is no reason therefore for excluding them altogether from the scheme of incentive bonus. Besides, as the tribunal has pointed out, in other comparable concerns incentive bonus is being paid to the clerical and subordinate staff. The fact that dearness allowance was paid to the clerical staff at a higher scale is also, in our opinion, no reason for depriving them altogether of the benefits of the incentive bonus scheme.

5. It is also urged on behalf of the company that the introduction of incentive bonus is a management function and the tribunal should not impose it on the

management and reference in this connection has been made to Messrs. Titaghur Paper Mills Co. Limited v. Their Workmen (1959) Supp. 2 S.C.R. 1012 In the present case, however, the incentive bonus scheme has already been introduced by the company for the major part of its workmen and all that is now asked for is that the benefit of the scheme should be extended to the remainder of the workmen. This prayer is, in our opinion, very different from asking a tribunal to impose an incentive bonus scheme for the first time in a concern. We can see no reason why where an incentive bonus is in force in a concern for the majority of its workmen, the tribunal should not be able to extend the same to the remainder of the workmen.

6. We therefore see no reason to interfere with the order of the tribunal in this behalf.

7. Turning now to the appeal of the workmen with respect of eight annas tiffin allowance during the period the canteen was not working, it is enough to say that this matter was examined at length by the tribunal. It has dealt with the history relating to this tiffin allowance and exhaustively considered all the points raised on behalf of the workmen. Nothing has been brought to our notice which would induce us to interfere with the considered order of the tribunal in this behalf. All the points that Sri Chatterjee has raised on behalf of the workmen have been dealt with by the tribunal and the conclusion it has reached is that having regard to the circumstances, the workmen were not eligible to the tiffin allowance of annas eight per head per working day. All that we need says is that the correspondence between the workmen and the company shows that though the workmen were keen on the provision of a canteen before the tiffin allowance was granted by the award dated July 24, 1953, their keenness disappeared after the award. The company seems to have taken steps even before the award to start a canteen and pursued the matter vigorously after the award; but the workmen started objecting to the arrangements made and some of the objections were fantastic. It seems that having been given the tiffin allowance they preferred to have it rather than go to the canteen. In the circumstances we are of opinion that the conclusion of the tribunal is correct and there is no reason for interference.

8. The appeals are hereby dismissed, but in the circumstances we pass no order as to costs.

9. Appeals dismissed.

