
(1960) 06 CAL CK 0019

In the Calcutta High Court

Case No : Civil Revision Case No. 506 of 1958

General Secretary, Eastern Zone Insurance Employees"
Association

APPELLANT

Vs

Zonal Manager, Eastern Zone, Life Insurance Corporation and
Others

RESPONDENT

Date of Decision : 16-06-1960

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 36
Life Insurance Corporation Act, 1956 — Section 22(1)

Citation : AIR 1962 Cal 45 : 65 CWN 23 : (1961) 1 LLJ 59

Hon'ble Judges : G.K. Mitter, J

Bench : Single Bench

Advocate : Atul Gupta and A.K. Dutta, for the Appellant; R. Chaudhuri and P.K. Ghosh, for the Respondent

Final Decision : Dismissed

Judgement

G.K. Mitter, J.—This is an application by the General Secretary of the Eastern Zone Insurance Employees" Association against (1) the Zonal Manager, Eastern Zone Life Insurance Corporation of India with his office at Hindusthan Building, Calcutta, (2) the Divisional Manager, Hindusthan Co-Operative Insurance Society Ltd. and (3) the Chairman, Life Insurance Corporation of India, Bombay, for the issue of a writ in the nature of mandamus calling upon the respondents to cancel the basic pay actually drawn on August 31, 1956 by persons who were formerly employees of the Hindusthan Co-operative Insurance Society Limited and to give effect to their basic pay in accordance with law for the purpose For fitting in with the new scale adopted by the Life Insurance Corporation of India and for other reliefs. The petitioner has no personal interest in the matter and is seeking to get redress for the ex-employees of the Hindusthan Co-operative Insurance Society Limited.

2 to 12. (After stating the facts and discussing the merits of the claim His

Lordship proceeded:) On the merits, the claim of the ex-employees of the Hindusthan Co-operative Insurance Society Limited cannot be upheld. Apart from this, Mr. Chowdhury, learned counsel for the respondents, raised a number of technical objections in bar of the application and it appears to me that some of these are quite substantial. In the first affidavit in opposition filed on behalf of the respondents it was submitted that the petitioner was not entitled to maintain the application and that the Life Insurance Corporation of India was a necessary party. As no grounds for this were stated a further affidavit was allowed to be filed. By the subsequent affidavit in opposition the first of the above objections was amplified as follows :

13. It was stated that the petition did not disclose whether the Eastern Zone Insurance Employee's Association was registered under the Trade Unions Act. If the Association was so registered the petition by the General Secretary was not maintainable. Alternatively, if the Association was not so registered the petition was still bad. It was stated further that the petitioner had no locus standi or authority to make the application as no legal right personal to the petitioner had been infringed,

14. In answer to this a further affidavit in reply was affirmed by one Sunil Kumar Maitra, the General Secretary of the Calcutta Division Life Insurance Employees' Association. In this it is stated that

(a) Before the passing of the Life Insurance Corporation Act, 1956 there was a number of unions of the employees of the Hindusthan Cooperative Insurance Society Limited; on the passing of the said Act and consequent division of life insurance work by Zones and other divisions the old unions were not in a position effectively to safeguard the interests of the employees of the Hindusthan Co-operative Insurance Society Limited.

(b) To meet the situation the various old unions of employees of Life Insurance Companies in Calcutta met in a convention held in Calcutta on August 4 and 5, 1956 and resolved to form a trade union organisation of the Life Insurance Employees of all offices of the Life Insurance Corporation of India situated within the territory covered by the Calcutta division of the Corporation.

(c) The newly formed Trade Union Organisation was named the Calcutta Division Life Insurance Employees' Association.

(d) At an Extraordinary general meeting of the old Hindusthan Insurance Employees' Association Calcutta membership of the association was transferred to the Calcutta Division Life Insurance Employees' Association and members of the old association were enrolled as members of the newly formed Calcutta Division Life Insurance Employees' Association.

(e) The said Calcutta Division Life Insurance Employees' Association was registered as a Trade Union on October 8, 1956 under the Indian Trade Unions Act, 1926 and the Association bore No. 3888 in the Trade Union Register. A

printed copy of the constitution of the said employees" association including a copy of the certificate of registration of the said association as a Trade Union is annexed to the affidavit in reply marked "A".

(f) In a convention called in Calcutta on August 12 and 13, 1956 of the employees of various life and general insurance companies from different States, West Bengal, Bihar, Assam and Orissa a larger association named Eastern Zone Insurance Employees" Association was formed by affiliating to it various unions in the, Eastern Zone as contemplated in the Life Insurance Corporation Act 1956. A copy of the constitution of the said Eastern Zone Insurance Employees" Association is annexed to the affidavit in reply marked "B".

(g) The Calcutta Division Life Insurance Employees" Association along with other unions applied for affiliation with the Eastern Zone Insurance Employees" Association by resolution passed on October 18, 1956 and such affiliation was granted by the latter Association at its meeting held at Calcutta on October 24 and 25, 1956.

(h) The persons on whose behalf the application has been made are all members of the Calcutta Division Life Insurance Employees" Association a registered trade Union, and the petitioner Pradip Ranjan Paul, the first General Secretary of the Eastern Zone Insurance Employees" Association on the information of the said association continues to hold that office.

(i) As such General Secretary the petitioner used to carry on correspondence with the authorities of the Life Insurance Corporation of India on behalf of the various unions of the Eastern Zone and such correspondence would show that the petitioner has been recognised as the General Secretary of the Eastern Zone Insurance Employees" Association and is as such competent to act on behalf of the unions of the Eastern Zone affiliated to the Eastern Zone Insurance Employees" Association,

15. Mr. Chowdhury contended that an application under Article 226 of the Constitution for the issue of a writ of the nature therein mentioned can only be made at the instance of an individual who is himself an aggrieved Person and if some one who is not himself aggrieved by any action wants to move the Court for redress it must be shown that he is competent under the law to make the application. Even in a suit under the provisions of order 1 Rule 8 the person seeking to represent others must himself be a Person who has a cause of action against the defendants. Mr. Chowdhury contended that Section 36 of the Industrial Disputes Act provides that the power given to an officer of a registered Trade Union or an officer of a Federation Trade Union and others to represent a workman is limited to proceedings under the Industrial Disputes Act itself and as the present application is not such a proceeding no such representation is permissible. He also drew my attention to Section 13 of the Trade Unions Act which empowers a Trade Union to sue and be sued in its name and argued that as the petition was not by a registered Trade Union this could be of no avail. He

also drew my attention to the rules of the Association referred to in the further affidavit in reply in support of his contention that even these did not permit representation by a secretary and the petition was not by Eastern Zone Insurance Employees" Association but its General Secretary, It was contended that the said rules did not give the General Secretary power to conduct litigation and in any event the General Secretary is not an ex employee of Hindusthan Co-operative Insurance Society Limited. In my view, it is not necessary to consider the rules of the Association at all.

16. Mr. Chowdhury relied on several decisions of the Supreme Court in support of his contention that no body unless affected by a law or act personally could challenge it. In Chiranjit Lal Chowdhuri Vs. The Union of India (UOI) and Others, , Fazl Ali, J., approved of the dictum in Mc Cabe v. Atchinson, (1914) 235 U. S. 151 that

"in order to justify the granting of the extraordinary relief, the complainant's need of it and the absence of an adequate remedy at law must clearly appear. The complainant cannot succeed because some one else may be hurt.

* * * * * It is the fact, clearly established, of injury to the complainant--not to other--which justifies judicial interference."

Similar observations occurring in other cases were cited by Mr. Chowdhury. As against this it was argued by Dr. Gupta that as our Constitution has made no provision in this respect Courts should follow the principles of Section 36 of the Industrial Disputes Act. I find myself unable to accept this argument. Section 36 of the Industrial Disputes Act does no doubt permit a representation of an aggrieved person by another who is not himself aggrieved but such representation is only possible in a proceeding under the Act and I can see no reason why in any proceedings not under the Act the same procedure should be followed. Procedure is but a hand-maiden of the legislature and can only work at the will of the latter. Courts of law are not free to adopt procedure prescribed by law in a particular case to another set of circumstances unless sanctioned. As I find no such sanction in this case I must hold in favour of the respondents.

17. With regard to the second ground of objection Mr. Chowdhury's contention was that in the absence of the Life Insurance Corporation of India it must be shown that the respondents or some of them were competent to grant the relief prayed for. He drew my" attention to certain sections of the Life Insurance Corporation Act, 1956. u/s 18 Sub-section (1) of the Act the central office of the Corporation must be situate at such place as the Central Government may, by notification in the official gazette, specify. Under an appropriate notification the central office has been located at Bombay but under Sub-section (2) the Corporation has to establish various Zonal Offices including one at Calcutta. u/s 19(1) the Corporation may entrust the general superintendence and direction of its affairs and business to an Executive Committee Consisting of not more than five of its members and the Executive Committee may exercise all powers and do

all such acts and things as may be delegated to it by the Corporation. u/s 22(1) the Corporation may entrust the superintendence and direction of the affairs and business of a zonal office to a person, whether a member or not, who shall be known as the Zonal Manager and the Zonal Manager shall perform all such functions of the Corporation as may be delegated to him with respect to the area within the jurisdiction of the zonal office. Mr. Chowdhury contended that it had not been shown that there has been a delegation of powers u/s 22(1) to the Zonal Manager by the exercise of which a person aggrieved as in this case can seek redress at his hands and therefore the application ought to be thrown out On that ground. As against this, it was contended by Dr. Gupta that the matter of the delegation was within the special knowledge of the respondents and as in spite of the complaint made in paragraph 16 of the petition the written delegation to the Zonal Manager, respondent No. 1 had not been disclosed in this case an inference adverse to the respondents ought to be drawn therefrom. He further commented on the fact that there was no statement of the affidavit-in-opposition that the Zonal Manager had no right to grant the relief asked for. It is however for the petitioner to establish that justice has been demanded of a person competent to mete it put and merely because the delegation in writing has not been disclosed I cannot come to the conclusion that it authorised the respondent No. 1 to deal with the matter. This difficulty could easily have been got over by demanding justice of the Life Insurance Corporation of India and making the Corporation a party respondent herein but that course has not been adopted.

18. Mr. Chowdhury also argued that as no demand has been made on the Zonal Manager for the reliefs sought in this case the application was not maintainable. He drew my attention to Exhibit D. E. F. and G. annexed to the petition which showed that the person before whom the claims of the ex-employees of the Hindusthan Co-operative Insurance Society Ltd. were being pressed was the Chairman, Life Insurance Corporation of India who had his office at Bombay outside the jurisdiction of this Court. The objection does not seem to be unfounded.

19. In view of the above the rule must be discharged hut without any order for costs.