

(1979) 09 CAL CK 0002
In the Calcutta High Court

Graphite India Limited

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 06-09-1979

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 11A, 33

Citation : 84 CWN 239 : (1980) 2 LLJ 29

Hon'ble Judges : M.M. Dutta, J;K.K. Sharma, J

Bench : Division Bench

Judgement

M.M. Dutta, J.—This appeal is at the instance of Graphite India Ltd. and it directed against the judgment of a learned Judge of This Court whereby he discharged the rule nisi obtained by the appellant-company challenging the propriety of the award of the 9th industrial Tribunal, Durgapur. By the said award, the learned Tribunal reinstated the respondent No. 4 Ratan Chandra Das Gupta in his post with effect from the date of ins dismissal with all back wages.

2. The respondent No. 4 was at all material time an Inspector in the Production Control Department of the appellant-company. On July 3, 1971 a charge-sheet was served upon him by the management inter alia to the following effect:

(1) On 2-7-71 he had been asked by the Supervisor of the department to sample 102X132X861 mm. size Anode, but instead of acting according to the instructions of the Supervisor he straightway refused to carry out according to the instructions in spite of several verbal and written warnings.

(2) On 26-6-71 while he was .Handed over a letter by Sri J.K. Agarwal he, after going through the contents of the letter straightway refused to accept the same.

Both these acts, constituted major misconduct under the Model Standing Orders.

3. The respondent No. 4 was suspended pending further enquiry into the charges levelled against him. One Sri Bagla Prasanna Bhatta, a Labour Officer of the appellant-company was appointed; the enquiry officer. As to the charge No1 the

defence of the respondent No 4 was inter alia that the sampling job of the Anode in question could be done only with two helpers or by two inspectors and one helper. As two helpers were not provided to him he could not do the job. Regarding the charge No 2, it was alleged by that he did not refuse to accept the letter out said to Sri J.K. Agarwal that He would accept the same after having a talk with the Manager, The case of the appellant-company was that the sampling job of the type of the Anode mentioned in charge No. 1 could be done with only one helper or by two inspectors, it was also alleged that the respondent No. 4 refused to accept the letter of warning mentioned in charge No. 2. So far as charge No 1 was concerned, evidence was adduced on both sides to prove their respective cases. The appellant-company examined four witnesses while the respondent No 4 examined six witnesses. On the question, whether the sampling job as referred to in charge No 1 required two helpers or not, another witness, namely, A.K. Das Gupta was examined by the enquiry officer out of his own. The said A.K. Das Gupta was alleged to have done the sampling job of the Anode in question with only one helper. It appears that the respondent No. 4 was not given an opportunity to cross-examine the said A.K. Das Gupta. The enquiry officer placed reliance on the evidence of the said A.K. Das Gupta and came to the finding that the job could be done by only one helper and as the respondent No. 4 had refused to do the work with one helper, he was found guilty of the charge. The enquiry officer also found the respondent No. 4 guilty of the charge No. 2. The Resident Director of the appellant-company concurred with the finding of the enquiry officer and found the respondent No. 4 guilty of the charges and by his order dated September 21, 1971 dismissed him from the service of the appellant-company with immediate effect.

4. Thereafter, the appellant-company filed an application u/s 33(2)(b) of the Industrial Disputes Act, 1947 before the 9th Industrial Tribunal for the approval of the action in dismissing the respondent No. 4. The Tribunal by its order dated November 3, 1971 held that proper and legal enquiry was held against the respondent No. 4 as required under the law, and that the appellant-company was able to make out a prima facie case against the respondent No. 4 and all principles of natural justice were also observed. Accordingly, the Tribunal by its said order approved of the action taken by the appellant-company in dismissing the respondent No. 4 from the service of the company.

5. Subsequent to the order of the Tribunal u/s 33(2)(b), a reference was made by the State Government u/s 10 of the Industrial Disputes Act, 1947 to the 9th Industrial Tribunal. The dispute that was referred to the Tribunal for adjudication was whether the dismissal of the respondent No. 4 was justified and to what relief, if any, he was entitled. The Tribunal found that as the respondent No. 4 was not given an opportunity to cross-examine the said Sri A.K. Das Gupta who was examined by the enquiry officer suo moto, the finding of the enquiry officer as to charge No. 1 regarding the incident dated July 2, 1972 was perverse and there was violation of the principles of natural justice. According to the Tribunal, the enquiry officer ought to have given the respondent No. 4 an opportunity to

cross-examine the said A.K. Das Gupta. As to charge No. 2, the Tribunal found that in view of Rule 27 (xx) of the Model Standing Orders of the year 1969 providing that refusal to accept a charge-sheet, order or other communication intended for service of any worker was a misconduct, the conduct of the respondent No. 4 in refusing the letter of warning tantamount to misconduct. It was, however, pointed out by the Tribunal that Rule 28(6) of the said Standing Orders provided that in awarding punishment the manager or the employer should take into account the gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that might exist. The Tribunal held that the management was not at all justified in dismissing the respondent No. 4 for simply refusing to accept the letter of warning tendered to him by the said J.K. Agarwal on June 26, 1977 on the plea that he would accept it after having a talk with the manager. According to the Tribunal a lesser punishment would have been sufficient. Ultimately, the Tribunal held that the management was not at all justified in dismissing the respondent No. 4 on the basis of the findings of the enquiry officer on the above two charges. It was held that the respondent No. 4 was entitled to be reinstated with effect from the date of his dismissal with all back wages. The Tribunal also expressed the view that in the circumstances, it was not inclined to award any lesser punishment in lieu of dismissal.

6. Being aggrieved by the said award of the Tribunal, the appellant-company challenged the same by filing a writ petition and obtained a rule nisi. In upholding the finding of the Tribunal the learned Judge took the view that, denying the delinquent an opportunity to cross-examine the witness upon whose evidence the enquiry officer had placed reliance was violation of the principles of natural justice. Further, the learned Judge observed that it was not known under what provision of law or under what procedure the enquiry officer himself called his own witness to prove the case of the management and, accordingly, that conduct itself showed that the enquiry officer was biased. The learned Judge held that in the circumstances the entire enquiry conducted against the respondent No. 4 was vitiated. In that view of the matter, the learned Judge discharged the rule nisi. Hence this appeal.

7. Mr. Ginwalla, learned advocate appearing on behalf of the appellant-company has urged the following contentions.

(1) Denial to a party of an opportunity of oral cross-examination is not necessarily the violation of the principles of natural justice because all that is required is an opportunity to criticize comment on and rebut any material relied on against the party.

(2) Assuming that there has been violation of the principles of natural justice it is not open to the Tribunal so to hold after finding in the proceeding u/s 33(2)(F) of the Industrial Disputes Act, 1947 that there has been no such violation.

(3) Assuming that it is open to the Tribunal to come to the question again, the

Tribunal having found that there has been violation of the principles of natural justice; it should have decided the issue excluding the evidence of the said A.K. Das Gupta.

(4) The Tribunal has committed an error of law apparent on the face of the record in holding that the finding of the enquiry officer is perverse.

(5) Having come to the conclusion that the second charge was proved and the employer was entitled to dismiss the respondent No. 4 the Tribunal had no valid ground and was not entitled in law to interfere with the decision on merit.

(6) The Tribunal ought to have considered whether compensation should be awarded in lieu of reinstatement.

8. The first contention made on behalf of the appellant-company involves the question whether the principles of natural justice were violated by the management in imposing an order of dismissal on the respondent No. 4. It has been stated already that the enquiry officer examined on his own the said A.K. Das Gupta who was not cited as witness by the appellant-company. The enquiry officer directed that the said A.K. Das Gupta would be examined by him only. After the witness was examined by the enquiry officer, he did not offer the respondent No. 4 any opportunity to cross-examine the witness. Indeed after the conclusion of examination of the witness, the enquiry officer called upon the defence representative to examine the respondent No. 4. In finding the respondent No.4 guilty of the charges levelled against him, the enquiry officer mainly relied on the evidence of the said A.K. Das Gupta, who was examined by him only, It does not appear from the report of the enquiry officer that he had applied his mind to or properly considered the evidence of witnesses examined by the respondent No. 4. In these circumstances, the question that arises is whether the principles of natural justice were violated.

9. It has been urged by Mr. Ginwalla that as the respondent No. 4 was present at the time the said A. K. Das Gupta was examined by the enquiry officer and had the opportunity to criticize, comment and rebut the evidence, there was no question of violation of the principles of natural justice. In *Sur Enamel and Stamping Works (P) Ltd. Vs. Their Workmen*, , it has been observed by the Supreme Court that an enquiry cannot be said to have been properly held unless, (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined--ordinarily in the presence of the employee--in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter and (v) the enquiry officer records his findings with reasons for the same in his report. In *State of Mysore Vs. S.S. Makapur*, , it has been observed by the Supreme Court that when the evidence is oral, normally the examination of the witness will, in its entirety, take place before the party charged, who will have full opportunity of cross-examining him. Further, it has

been observed that the position is the same when a witness is called, the statement given previously by him behind the back of the party is put to him, and admitted in evidence a copy thereof is given to the party, and he is given an opportunity to cross-examine him. In an earlier decision in *Union of India (UOI) Vs. T.R. Varma*, , the Supreme Court observed as follows:

Stating it broadly and without intending it to be exhaustive, it may be observed that rules of natural justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no materials should be relied on against him without him being given an opportunity of explaining them.

10. The above decisions of the Supreme Court clearly lay down that when a witness is examined against a party that party should be given an opportunity to cross-examine that witness. On behalf of the appellant-company, much reliance has been placed on a Bench decision of this Court in *Kishanlal Agarwalla Vs. Collector of Land Customs*, . In that case, a Division Bench of this Court observed as follows:

No natural justice requires that there should be a kind of a formal cross-examination is procedural justice. It is governed by rules of evidence. It is the creation of Courts and not a part of natural justice but of legal and statutory justice. Natural justice certainly includes that any statement of a person before it is accepted against somebody else, that somebody else should have an opportunity of meeting it whether it is by way of interrogation or by way of comment does not matter. So long as the party charged has a fair and reasonable opportunity to see, comment and criticize the evidence, statement or record of which the charge is being made against him, the demands and the test of natural justice are satisfied. Cross-examination in that sense is not the technical cross-examination in a Court of law in the witness box.

11. On behalf of the appellant in that case, the observation of the Supreme Court in *T.R. Varma's* case as quoted above and the decision of the Supreme Court in *State of Mysore v. Shivabasappa* (supra) were relied on. But the learned Judges in *Kishanlal's* case distinguished the said cases on the ground that they were governed by either Rule 55 of the Fundamental Rules giving the aggrieved party the right to cross-examine or by the rules of service. We are, however, unable to distinguish the above two Supreme Court cases particularly the observation in *T.R. Varma's* case quoted above on the ground as relied on by the learned Judges in *Kishanlal's* case referred to above. In *T.R. Varma's* case, the observation of the Supreme Court was not made on the basis of Rule 55 of the Fundamental Rules, but on the general principles of natural justice. If under any rule the party charged has to be given an opportunity to cross-examine any witness that may be examined against him and if no such opportunity is given to that party, it will be a case of violation of the rule and the question of violation of

the principles of natural justice will not arise. In T.R. Varma's case the Supreme Court did not refer to Rule 55 but laid down in a broad manner the principles of natural justice which included affording to the party an opportunity to cross-examine the witnesses examined against him. In Kishanlal's case, the learned Judges have placed reliance on the observation of Venkatarama Aiyar, J., in *State of Madhya Pradesh v. Chintaman Sadashiva* AIR 1961 S.C. 1623, to the effect that the only obligation which the law casts on the Tribunals exercising quasi-judicial functions is that they should not act on any information which they may receive unless they put it to the party against whom it is to be used and give him a fair opportunity to explain it. Aiyar, J., was not considering the question whether rules of natural justice required that a party against whom certain witnesses had been examined should be afforded an opportunity to cross-examine the witnesses. All that has been laid down in the said observation of Aiyar, J., is that the Tribunals should not act on any information unless they put it to the party against whom it is to be used and give him a fair opportunity to explain it. In view of the decision in the case of *Sur Enamel and Stamping Works Ltd. v. The Workmen* (supra) where it has been clearly laid down that giving to the employee a fair opportunity to cross-examine the witnesses examined against him is one of the principles of natural justice, the decision in Kishanlal's case (supra) in so far as it holds that no natural justice requires that there should be a kind of formal cross-examination and the decision in *Haripada Moitra Vs. President, Calcutta Improvement Tribunal*, which followed Kishanlal's case, are contrary to the principles of law laid down by the Supreme Court in the above cases. Accordingly, we hold that the principles of natural justice require that a person against whom certain charges have been levelled should be given an opportunity to cross-examine the witnesses examined against him in support of the charges.

12. It has, however, been argued on behalf of the appellant-company that although A.K. Das Gupta was examined by the enquiry officer, the respondent No. 4 not having asked for an opportunity to cross-examine the said witness, there was no question of violation of the principles of natural justice. In support of that contention, reliance has been placed on behalf of the appellant-company on a Bench decision of this Court in *Sovachand Mulchand v. The Collector of Central Excise and Land Customs and Ors.* AIR 1968 Cal. 1974. In that case, it has been observed that if the accused does not ask for an opportunity to cross-examine after coming to know of the evidence adduced against him, the accused cannot later be heard to complain that the principles of natural justice were denied to him. The question to be considered is whether the aggrieved party was given a reasonable opportunity to cross-examine a witness and the answer to that will depend on the facts and circumstances of each particular case. It may so happen that in a case the conduct of an aggrieved party may lead to the inference that he was not inclined to cross-examine a particular witness, In such a case, the contention that the principles of natural justice were denied to him would not be available to him. In the instant case, it is quite clear that such an

opportunity was denied to the respondent No. 4. The enquiry officer directed that the said A.K. Das Gupta would be examined by him only. The word "only" is significant and it excluded the question of cross-examining that witness by any party. In other words, the enquiry officer by his said direction made it clear to the parties that the respondent No. 4 would not be allowed to cross-examine the said witness. In the circumstances, there can be no doubt that it would have been futile for the respondent No. 4 to ask an opportunity to cross-examine the witness. The special feature of the instant case is as stated already, that the enquiry officer mainly relied on the evidence of A.K. Das Gupta in holding the respondent No. 4 guilty of the charge No. 1. After considering the facts and circumstances, we have no hesitation in holding that the respondent No. 4 was denied the principles of natural justice in defending him in the departmental proceeding relating to charge No. 1. In this regard, we affirm the finding of the Tribunal and of the learned Judge.

13. The second contention of the appellant-company is that in the proceeding u/s 33(2)(b) of the Industrial Disputes Act, the Tribunal having found that there had been no violation of the principles of natural justice, it was not open to the Tribunal to hold to the contrary in the present proceeding. In other words, it is urged that the finding of the Tribunal in the proceeding u/s 33(2)(b) that a proper and legal enquiry was held against the respondent No. 4 as required under the law would operate as *res judicata* in the present proceeding. It is now a well-established principle of law that the finding on an issue in order to be *res judicata* in a subsequent proceeding, the issue must have been heard and finally decided. In a proceeding u/s 33(2)(b), the Tribunal may approve of the action of the employer against his employee on a *prima facie* finding that the enquiry held against the employee was proper and legal and that all the principles of natural justice were complied with. The Tribunal is, therefore, not to decide finally as to the legality and propriety of the enquiry but it comes to & *prima facie* finding in that regard. As the point cannot be said to have been finally decided by the Tribunal, there is no question of the finding of the Tribunal operating as *res judicata* in a subsequent proceeding. The Karnataka High Court in *The Management of Mjs. Amalgamated Elec. Co., Ltd. v. Workmen* (1975) 1 L.I.C. 879, has laid down that the finding recorded in a proceeding u/s 33(2)(b) regarding the validity of a domestic enquiry cannot be used as *res judicata* in a subsequent reference u/s 10 even though the questions that arise for consideration are the same. The Supreme Court in *Mckenzie and Co. Ltd. Vs. Its Workmen and Others*, , has observed that as the purpose of Section 33 of the Industrial Disputes Act is merely to give or withhold permission and not to adjudicate upon an industrial dispute, any finding u/s 33 would not operate as *res judicata* and bar the raising of an industrial dispute. On behalf of the appellant-company a distinction has been sought to be made between the raising of an industrial dispute and the findings to be made by the Tribunal in such a dispute. It is contended that although there is no bar to the raising of an industrial dispute, the Tribunal will be precluded from holding against the legality

of an enquiry by the employer against its workman on the court" of non-compliance of the rules of natural justice, if in a proceeding u/s 33(2)(b) the Tribunal upheld the enquiry as legally and properly held. We are unable to accept this contention. The principles of res judicata oust the jurisdiction of the Court or Tribunal to entertain any suit or proceeding. If an issue operates as res judicata, it cannot be raised again in a subsequent suit or proceeding. It, therefore, follows that when the raising of a dispute is permitted and the Tribunal is entitled to entertain the same, there could be no question of res judicata preventing the Tribunal from determining that dispute. The contention made on behalf of the appellant-company in this regard is overruled.

14. We propose to consider the third and fifth contentions of the appellant-company last. The fourth point that has been urged on behalf of the appellant-company is that the Tribunal has committed an error of law apparent on the face of the record in holding that the finding of the enquiry officer on charge No. 1 is perverse. Submissions were made on behalf of either party as to the import and connotation of the word "perverse". We do not think that it is necessary for us to lay down what is the true meaning and scope of the word "perverse", for the Tribunal held that the finding of the enquiry officer holding the respondent No. 4 guilty of charge No. 1 was vitiated as the enquiry officer did not comply with the rules of natural justice by giving the respondent No. 4 an opportunity to cross-examine the said A.K. Das Gupta. We have upheld the said finding of the Tribunal and, as such, we do not think that we are called upon to consider whether the Tribunal was justified in observing that the finding of the enquiry officer on charge No. 1 was also perverse.

15. The sixth contention of the appellant-company is that the Tribunal ought to have considered whether compensation should be awarded in lieu of reinstatement. The same contention was made before the learned Judge. The learned Judge, after considering certain authorities on the point, overruled the same. It is contended that the employer having lost confidence in the respondent No. 4 he should be reinstated. Such a broad proposition is difficult to be accepted. There may be some special circumstances where it would be inexpedient to reinstate the workman, namely, where such reinstatement would be hazardous or prejudicial to the interest of the industry on the ground of security, where a workman is entrusted with an office of trust and confidence and where there is evidence that there is a reasonable possibility of recurrence of trouble. Reference in this connection may be made to Hindustan Steels Ltd., Rourkela Vs. A.K. Roy and Others, : Francis Klein and Co. (P) Ltd. v. Their Workmen and Anr. (1971) S.C.LJ 512 and Tulsi Das Paul v. Second Labour Court W.B. and Ors. (1971) S.LJ 517. There is no evidence in the instant case of any such circumstance so as to justify awarding of compensation in lieu of reinstatement of the respondent No. 4. The contention of the appellant-company therefore fails.

16. It has been found by the Tribunal that undoubtedly the act of the respondent

No, 4 in refusing to accept the letter of warning Tanta-mounted to misconduct. In other words, the Tribunal finds that the charge No. 2 has been proved against the respondent No. 4. The Tribunal, however, has referred to Rule 28(6) of the Standing Orders which provides that in awarding punishment, the manager or the employer shall take into account the gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. It has been held by the Tribunal that in the circumstances, the management was not at all justified in dismissing the respondent No. 4 simply for refusing to accept the letter of warning tendered to him by the said J.K. Agarwal on June 26, 1971. According to the Tribunal, a lesser punishment would be sufficient so far as the charge No. 2 was concerned. The Tribunal, however, has not imposed such lesser punishment; on the contrary, the Tribunal has expressed its disinclination to award any lesser punishment in lieu of dismissal. It has clearly come to the finding that the act of the respondent No. 4 tantamount to misconduct. There can be no doubt tint in view of Section 11A of the Industrial Disputes Act, 1947; the Tribunal had the jurisdiction to award a lesser punishment in lieu of dismissal. The Tribunal, however, was not inclined to award any lesser punishment. No reason has been given by the Tribunal why it was not inclined to award a lesser punishment. The Tribunal also does not appear to have considered the service records of the respondent No.4 In the circumstances; the Tribunal does not appear to have considered the question properly in accordance with law. There is, therefore, some substance in the fifth contention made on behalf of the appellant-company.

17. The third contention of the appellant-company now remains to be considered by us. It is argued on behalf of the appellant-company that the Tribunal having found that there has been violation of the principles of natural justice, it was the duty of the Tribunal to decide the charge No. 1 after excluding the evidence of A.K. Das Gupta. The Tribunal only considered whether the rules of natural justice were complied within the enquiry that was held against the respondent No. 4. It came to the finding that the enquiry was not properly and legally held as the respondent No. 4 was not given an opportunity to cross-examine the said A.K. Das Gupta. Section 11A empowers the Tribunal to reappraise the evidence and examine the correctness of the finding arrived at the enquiry. The Tribunal has not considered the evidence adduced on behalf of either party in the enquiry proceeding as the respondent No. 4 was not given an opportunity to cross-examine the said A.K. Das Gupta. In our view, the Tribunal has not properly discharged its duty as enjoined by Section 11A. The objectionable part in the enquiry was the evidence of the said A.K. Das Gupta on which much reliance was placed by the enquiry officer in holding the respondent No. 4 guilty of the charge No. 1. The Tribunal could have easily excluded the evidence of A.K. Das Gupta and thereafter considered the other evidence on record and come to a finding as to the guilt or otherwise of the respondent No. 4. In this connection, we may refer to a decision of the Supreme Court in the *The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs. The Management and Others*, , where it

has been observed that it is only on the basis of the materials that the Tribunal is obliged to consider whether the misconduct is proved and the further question whether the proved misconduct justifies the punishment of dismissal or discharge. The expression "materials on record" occurring in the proviso to Section 11A has been considered by the Supreme Court as follows:

"The "materials on record" in the provision must be held to refer to materials on record before the Tribunal. They take in--

(1) the evidence taken by the management at the enquiry and the proceedings of the enquiry, or

(2) the above evidence and in addition, any further evidence laid before the Tribunal, or

(3) evidence placed before the Tribunal for the first time in support of the action taken by the employer as well as the evidence adduced by the workmen contra.

One of the materials, therefore, is the evidence taken by the management at the enquiry and the proceedings of the enquiry. The employer did not pray for adducing any evidence before the Tribunal. The Tribunal should have, on the basis of the materials on record, namely, the evidence adduced in the enquiry proceeding by the management as also by the respondent No. 4 considered whether the misconduct of the respondent No. 4 was proved and the further question whether the proved misconduct justified the punishment of dismissal or a lesser punishment in lieu thereof. The Tribunal has not, as stated already, applied its mind to the materials on record after excluding the evidence of A.K. Das Gupta. In the circumstances, we are of the opinion that the case has not been properly considered by the Tribunal.

18. For the reasons aforesaid, we set aside the judgment of the learned Judge and the award of the Tribunal and send the matter back to the Tribunal with a direction to come to a riding as to the guilt or otherwise of the respondent No. 4 in respect of both the charges upon considering the materials on record, that is the evidence adduced on behalf of either party in the enquiry proceeding excluding, however, the evidence of the said A.K. Das Gupta. If the Tribunal comes to the finding that the guilt of the respondent No. 4 either under one or both the charges is proved, the Tribunal shall thereafter consider whether it would award a lesser punishment in lieu of dismissal. Needless to say, if the Tribunal comes to the finding that the guilt of the respondent No. 4 has not been proved either under charge No. 1 or under charge No. 2, the Tribunal shall reinstate the respondent No. 4 with effect from the date of his dismissal with all back wages. As both sides have induced sufficient evidence at the enquiry, the Tribunal shall not entertain any further evidence at the instance of either party. The Tribunal shall dispose of the proceeding as expeditiously as possible and if it is not otherwise inconvenient, it shall dispose of the same by the end of January, 1980.

19. The appeal is allowed, but in view of the facts and circumstances of the case there will be no order for costs.

K.K. Sharma, J.

20. I agree.