

(1974) 11 AHC CK 0001
In the Allahabad High Court

Jaswant Sugar Mills Co. Limited

APPELLANT

Vs

Labour Court and Others

RESPONDENT

Date of Decision : 26-11-1974

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6E(2)

Citation : (1975) 2 LLJ 16

Hon'ble Judges : R.L. Gulati, J

Bench : Single Bench

Judgement

R.L. Gulati, J.—The petitioner is a public limited company which runs a sugar factory at Meerut. In December, 1955 some of the workmen of the factory raised certain demands. The demands not having been met, they decided to launch direct action by adopting go slow policy. The petitioner-company served charge-sheets on 63 workmen for having resorted to go slow action, On enquiry they were all found guilty. The petitioner-company (hereafter moved an application before the Additional Regional Conciliation Officer for permission to dismiss them. The Additional Regional Conciliation Officer granted the permission for the dismissal of 11 workmen but refused permission in respect of the remaining 52 workmen. The petitioner preferred an appeal before the Labour Tribunal. The appeal was rejected on the ground that it was not maintainable. The petitioner then preferred an appeal before the Supreme Court. The Supreme Court also held that the appeal was not maintainable as the conciliation officer was not a Tribunal. Thereafter, the petitioner-company preferred a writ petition No, 3047 of 1962 in this Court. The writ petition was allowed and as a result the petitioner dismissed the workmen in respect of whom permission had been refused by the conciliation officer. The petitioners then application for approval before the Labour Court u/s 6E(2) of the U.P. Industrial Disputes Act. The permission was granted. The workmen thereupon filed Civil Misc. Writ No. 115 of 14 in this 1964 Court against the order of the Labour Court. That petition was dismissed. After a period at about 8 years on February 5, 1964 the State Government referred the following dispute u/s 4K of the Act to the Labour Court, Meerut:

Whether the employers have terminated the services of the workmen, named in the annexure with effect from January 14, 1963, legally and/or justifiably? If not, to what relief are the workmen concerned entitled?

2. The reference is now pending before the Labour Court, Meerut. The workmen moved an application dated December 20, 1965 before the Labour Court, Lucknow/Meerut praying that with a view to mitigating the suffering of the poor workmen the Court may allow some interim relief and may make an interim award. This application also remained pending for about 5 years. In October, 1970 the workmen once again pursued the application. The petitioner moved an application before the Labour Court requesting that the final hearing of the case may be fixed at an early date so that it may not be necessary for the Labour Court to make an interim award or grant an interim relief. The said application was heard by the Labour Court on October, 22, 1971 when the Labour Court directed the petitioner to deposit half of the wages due to the workmen concerned from time to time according to the Government orders binding on the employers from December 21, 1965 onwards in Court. The amount, however, was not to be paid until the main case was disposed of. It was further directed that if the amount was not so deposited within three weeks immediate steps would be taken to recover it as arrears of land revenue. The petitioner is aggrieved and has challenged the order in this Court.

3. In my opinion, the Labour Court has exceeded its jurisdiction in passing the impugned order. A Court or a Tribunal can, by an interim, order, grant such relief as it is competent to grant on the passing of the final order. Payment of money to a party to a labour dispute cannot be awarded by a Labour Court. When it decides a labour dispute its jurisdiction more or less is of advisory in nature inasmuch as the award given by it is not enforceable as such but it becomes enforceable only after the State Government publishes it in the Gazette and before the State Government makes the award enforceable it has the jurisdiction to remit it for reconsideration, to postpone its enforcement and also in certain cases to rescind or to modify it. This is clear from the following provisions.

4. u/s 4K a reference of a labour dispute is made to a Court of Tribunal. Section 6 deals with the awards and action to be taken thereon. Sub-section (3) of this Section provides that every award shall, within a period of thirty days from the date of its receipt by the State Government be published in such manner as the State Government thinks, Sub-section (4) then provides that the State Government may before publication of an award remit the same for reconsideration by the adjudicating authority. Section 6A then provides for the commencement of the award and says that an award shall become enforceable on the expiry of thirty days from the date of its publication u/s 6. Then there is a proviso which says that if the State Government is of the opinion that it will be inexpedient to give effect to the whole or any part of the award, it may by notification in the Official Gazette declare that the award shall not become enforceable on the expiry of the said thirty days. Then the second proviso says:

Provided further that an award shall not become enforceable where the State Government after such enquiry as is considered necessary, is satisfied that the same has been given or obtained through collusion, fraud or misrepresentation.

5. Then comes Section 6A, Sub-section (2) and Sub-section (3) of this Section are material and provide:

Where any declaration has been made in relation to an award under the first proviso to Sub-section (1), the State Government may within ninety days from the date of publication of the award u/s 6, make an order rejecting or modifying the award and shall on the first available opportunity lay the award, together with a copy of the order before the Legislature of the State.

(3) "Where any award as rejected or modified by an order made u/s 2 is laid before the Legislature of the State, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid and where no order under Sub-section (2) is made in pursuance of a declaration under the first proviso Sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in Sub-section (2).

Thus it is clear that a Labour Court may award a sum of money to a workman but it cannot enforce its payment. An award is not like a decree which is enforceable by its own force, Unless an award is published in the Gazette by the State Government it does not acquire the status of a decree and, as already pointed out above, the State Government can modify an award or stay its commencement for a period longer than 30 days. The Government can also, in certain cases, modify or rescind the award. Unless an award passes through all these stages it does not become enforceable, which means clearly that the Labour Court or a Tribunal cannot direct payment of any money under an award finally. It follows, therefore, that a Labour Court cannot decree a sum of money even though it may declare it payable under an award. In the instant case the Labour Court was not justified to direct the petitioner-company to deposit, in Court part of wages for payment to the workmen concerned, because it could not have passed such an order even on the making of a final award.

6. A Labour Court also does not have any inherent power as are vested in civil Courts. It enjoys the powers of a civil Court for a limited purpose, as is clear from Section 5C of the Act. Sub-section (3) defines the extent to which a Labour Court enjoys the powers of a civil Court and runs as follows:

(3) Every Board, Labour Court and Tribunal shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:

(a) enforcing the attendance of any person and examining him on oath or affirmation or otherwise;

(b) requiring the discovery and production of documents and material objects;

- (c) issuing commission for the examination of witnesses;
- (d) inspection of any property or thing including machinery concerning any such dispute; and
- (e) in respect of such other matters as may be prescribed.

Obviously a labour Court cannot pass any order which it deems fit in the interest of justice including a decree before judgment, or on interim injunction. A labour Court, in my opinion, had no jurisdiction to pass the impugned order directing the petitioner-company to deposit in labour Court certain amount of wages to be paid to the workmen after the final adjudication.

7. The second part of the impugned order is more amazing. It directs that unless the petitioner-company deposits the amount of wages the same shall be recovered as arrears of land revenue. The learned Counsel has not been able to point out any provision under which, such an order could be passed. A sum of money due to a workman under an award cannot be recovered as arrears of land revenue unless there is specific provision in that regard in the Act and no such provision has been brought to my notice.

8. For all these reasons the petitioner succeeds and is allowed. The order of the labour Court dated March 27, 1971 (Annexure "E" to the writ petition) is quashed. The petitioner is entitled to the costs.