
(1993) 05 AHC CK 0077
In the Allahabad High Court
Case No : C.M.W.P. No. 23464 of 1993

Jila Sahakari Bank Ltd.

APPELLANT

Vs

Conciliation Officer and Another

RESPONDENT

Date of Decision : 12-05-1993

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 2A

Citation : (1994) 1 AWC 301 : (1994) 68 FLR 83 : (1995) 1 LLJ 614

Hon'ble Judges : B.L. Yadav, J

Bench : Single Bench

Advocate : V.K. Goel, for the Appellant;

Final Decision : Dismissed

Judgement

B.L. Yadav, J.—By this petition under Article 226 of the Constitution of India, the prayer is that the order dated March 11, 1993 (Annexure No. 6) condoning the delay in making the application by the workman, respondent No. 2, for conciliation u/s 2A of the U.P. Industrial Disputes Act, 1947 (compendiously the "Act") may be quashed by issuing a writ of certiorari.

2. There was some delay in making that application in view of the provision of the First Proviso Paragraph 2 of the Order dated December 31, 1957 (for short the order) issued by the State in the exercise of powers u/s 3 of the U.P. Industrial Disputes Act, 1947. The First Proviso provides that no application shall ordinarily be entertained by the Conciliation Officer if it is in respect of the dispute arising more than six months from the date of application. The second proviso enacts that the Conciliation Officer may entertain any application if he is satisfied that the applicant has sufficient cause for not making the application earlier.

After hearing both the parties, Conciliation Officer had held that he was satisfied with the cause of delay, hence he condoned the delay and the employer was directed to file written statement on March 22, 1993.

3. Learned counsel for the petitioner urged that no reasons have been given by the respondent No. 1 in the impugned order dated April 11, 1993, even though the same was quasi-judicial order. Hence impugned order was erroneous. Reliance was placed on S.N. Mukherjee Vs. Union of India, , Woolcombers of India Ltd. Vs. Woolcombers Workers Union and Another, , G. Ramegowda, Major and Ors Vs. Special Land Acquisition Officer, Bangalore, , 1987-I-LLJ-500 (Collector Land Acquisition Anantnag v. Mst. Katiji,) Concord of India Insurance Co. Ltd. Vs. Smt. Nirmala Devi and Others, .

4. Having heard learned counsel for the petitioner at considerable length, I am of the opinion that the petition is devoid of merit. There is no denying the fact that a quasi-judicial order must contain reasons but it depends upon the nature of the order to be passed. The legislature manifests its intention by the words "employed" to indicate as to how the order is to be passed.

5. There is a Maxim "cessante ration legis cessat ipsa lex " which connotes that the reason is the soul of law. Where reason ceases in the law or where reasons are absent in an order it is of no consequence, but this principle is to be applied to the particular facts of the case. In the present case, an order was issued by the State Government dated December 31, 1957, in exercise of power u/s 3 of the Act. The First Proviso of Paragraph 2 of the order provides that no application shall ordinarily be entertained if it is in respect of the dispute arising more than a period of limitation of six months from the date of application, before Conciliation Officer seeking relief or reinstatement and back wages, or making reference, or making recommendation to that effect so that the State Government may make a Reference u/s 4K of the Act. The Second Proviso of the Order provides that the Conciliation Officer may entertain the application if he is satisfied that the applicant has sufficient cause for not making it earlier.

6. What appears significant is the expression "Ordinarily" which connotes as matter of regular occurrence. In most cases, usually, the use of expression "Ordinarily" which is adverb according to grammar, makes it manifest that in exceptional cases the application for specified relief can be entertained even if it was beyond a period of limitation of six months.

7. It was only the satisfaction of the Conciliation Officer, which was material. In my opinion substantial satisfaction in the impugned order has been recorded that he was satisfied about the cause of delay. Consequently, he condoned the delay. It was the application for conciliation under the Act and the provision of the Act were the piece of social legislation. In such matters, keeping in view the direction and intendment of the legislature a decision is to be taken. As it was the application for conciliation hence the justice demanded that it may be decided on merits.

8. In such matters where an application for conciliation is made apparently beyond prescribed period of time, the approach of the court or authority must be justice-oriented. Alternative may be considered ,in case delay was not condoned,

the result would be that meritorious matters must be thrown out at the very threshold and the cause of justice would be jeopardized. Against this, when the delay is condoned, what is going to happen is that both the parties would be in a position to lead the evidence and the matter would be decided on merits. Consequently, it is the basic reason why the court must make or adopt a reasonable, rather a justice -oriented approach and not to make pedantic approach.

9. Legislature also appears to be conscious in such a matter that detailed reasons are not required to be recorded before an order condoning the delay was passed. What is required is the satisfaction of the authority of tribunal, otherwise the provision would have been drafted in different language. The legislature in its wisdom has omitted recording of reasons in matters of condonation of delay.

10. Coming to the cases cited. S.N. Mukherji v. Union of India, (Supra) was the case under the Army Act, where it was observed that court marshal was not required to record its reasons. It was observed by the Constitution Bench that the legislature may provide recording of reasons by administrative, judicial or quasi-judicial authority while conferring power. It was held that order of affirmance need not contain reasons. The objects underlying the rules of recording reasons were to prevent miscarriage of justice and to secure fair play in actions, but in the instant case even if reasons were not recorded that would not prejudice the petitioner. The satisfaction of the officer is there. This Constitution Bench case instead of helping the petitioner goes against him.

11. Woolcombers of India Ltd. v. Woolcombers Workers Union (Supra) was the case where giving of reasons, in support of the conclusion by judicial and quasi-judicial authority, when exercising initial jurisdiction with a view to prevent unfairness or arbitrariness in reaching the conclusion, was considered. In the instant case it was a matter of the satisfaction of the Conciliation Officer, while condoning the delay and he has recorded his satisfaction. Under the circumstances of the case, this case does to take the petitioner's case any further.

12. In Collector Land Acquisition, Anantnag v. Mst. Katiji, (Supra) their Lordships of the Supreme Court ruled that with a view to enable the court to do substantial justice to parties the matters must be decided on merits. In the present case, the legislature manifested its intention in the Second Proviso of the Order. This Second Proviso was to be interpreted so as to serve the ends of justice and a reasonable and rather liberal approach may be made. What was being interpreted was social beneficent legislation and consideration, under other law would not be material

13. In M/s Concord of India Insurance Co. Ltd v. Smt, Nirmala Devi, (Supra) it was observed by their Lord ships of the Supreme Court that mistake on account of legal advice from the counsel was held to be sufficient cause for condoning the delay. The mistake in legal advice was not for consideration in the present case.

14. In Ramegowda Major etc. v. The Special Land Acquisition Officer, (Supra) their Lordships of the Supreme Court have ruled that where the delay has been condoned by the High Court in exercising the discretionary power holding that sufficient cause has been made out u/s 5 of the Indian Limitation Act, in that case the Supreme Court would not interfere and the expression "sufficient cause" must receive liberal construction so as to advance the substantial justice.

15. In the present case also, Conciliation Officer was satisfied that sufficient cause was made out but he did not record the reasons for arriving at the conclusion. He was exercising the jurisdiction under social beneficent legislation. While interpreting provisions of such legislation, court has to make a purposive and justice-oriented approach. The approach of the Conciliation Officer was correct Substantial justice has been done by the impugned order. There is no justification for interference in the exercise of power under Article 226.

16. In view of the premise aforesaid the petition lacks merit and the same is dismissed summarily.