
(1977) 07 RAJ CK 0025
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1911/71

K and C Daga

APPELLANT

Vs

K.S. Pillay

RESPONDENT

Date of Decision : 12-07-1977

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 33C

Citation : (1977) WLN 190

Hon'ble Judges : M.L. Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.L. Jain, J.—The facts of this writ petition are that the Bikaner Gypsums Ltd. used to hire labour through contractors for doing certain jobs including the job of loading gypsum from the railway siding to the railway wagons. The contractors in their turn used to employ labour on piece rate basis. The workmen of the Bikaner Gypsums Ltd raised a dispute regarding increase of dearness allowance, which was referred for adjudication to the Industrial Tribunal at Jaipur. Meanwhile, an interim relief in the dearness allowance was allowed to its workmen by the said Company. The piece rate labour of the contractions also clamoured for dearness allowance and on 26-2-66 a settlement was reached between the petitioner contractor M/s K. & C Daga and his workmen. The first of the terms of the said agreement was that the labour shall get the same relief as will be granted to the workmen of M/s. Bikaner Gypsums Ltd. in accordance with the award that the said Tribunal may give. The second of the terms was that the workmen shall be granted an interim relief by suitable revision of the existing rates w.e.f. 1-2-66 and the arrears shall be paid on or before 7-4-66. The award of the Industrial Tribunal was given on 26-12-66, but it was challenged before the Supreme Court and ultimately, the appeal was disposed of in accordance with a compromise reached by the Company and the workmen on 2-10-67. The piece rate labour went on strike from 6-10-67 to 20-10-67 and a settlement between the

petitioner and the labour was arrived at on 21-10-67 as a result of conciliation proceedings. The terms of this second settlement were that the contractor will pay an advance of Rs. 5/- per head to each loading labour by 26-10-67. This advance will be payable only once and will be adjusted with the arrears of wages payable in terms of the award of the Industrial Tribunal, otherwise, it will be recovered from the wages for the month of January, 1968. Besides, the following two questions were agreed to be referred to an Industrial Tribunal for adjudication u/s 10(2) of the Industrial Disputes Act, 1947; namely:

1. Whether any relief is due to the contractor's loading labourers as per demand No. 1 of settlement dated the 26th and 27th Feb. 1966 in view of the interim relief already granted w.e.f. 1st Feb. 1966?

2. Whether the strike by the loading labourers w.e.f. 6th Oct., 1967 was legal and justified and if so, whether they are justified to receive any compensation for the strike period?

2. The said terms were referred to an Industrial Tribunal constituted by the Central Govt. presided over by Shri Jawansingh Ranawat. This reference is published in the Gazette of India Dec. 23, 1967. The workmen and their Union also filed a claim u/s 33(C)(2) of the Industrial Disputes Act, in the Central Govt. Labour Court at Jaipur for determination of the amount due to the petitioners according to the terms of the settlement dated 26-2-66. A notice was again to the petitioners to file a reply by 9-2-68. The petitioners prayed for extension of time for one month. A notice was again served upon the petitioners to appear on 20-2-68. The petitioners again sought an adjournment by telegram dated 27-2-68. But the learned labour Court disposed of the application ex-parte on 2-4-68, determining the total amount of interim relief at Rs. 14,921.82. The Regional Labour Commissioner, respondent No. 1, Mr. K.S. Pillai, directed the petitioners on 20-5-71 to make the payment in terms of the Labour Court's order within 15 days failing which steps for recovery of the amount were to be taken under Sub-section (1) of Section 33C of the Industrial Disputes Act, 1947. The petitioners raised an objection that the application for recovery of money made by the employees was made after one year from the date on which the also said that most of the workmen concerned had left the services after final settlement of their dues and, therefore, no recovery could be effected. The objections were rejected by the said Regional Labour Commissioner on 28th July, 1971. He again directed the petitioners to make payments within 15 days.

3. By this petition, which was filed on 8-11-71, the petitioners now seek that the order of the learned Labour Court dated 2-4-68 and the orders of the learned Labour Commissioner dated 20th May, 1971 and 20th July, 1971 be quashed.

4. No one has appeared on behalf of the opposite party and Mr. Ugam Raj Tatia submitted his arguments on behalf of the petitioners.

5. The learned Counsel for the petitioners does not challenge the jurisdiction of the Labour Court. His first contention is that the order of the learned Labour

Court was made ex-parte without an opportunity of hearing having been given to the petitioners and amounted to a violation of principles of natural justice. This argument cannot hold water firstly because the petitioners were given two adjournments but instead of making proper appearance, they contented themselves by simply sending a telegram for adjournment. It cannot, therefore, be urged that the petitioners have had no opportunity of hearing; secondly, because the award was made as early as 2-4 68, while the writ petition to quash the same was being made in Nov. 1971, which is highly belated and deserved to be rejected on that ground alone.

6. The second contention of the learned Counsel is that as long as the reference was pending before the Tribunal, the workman had no cause of action, nor was the learned Labour Court entitled to determine the amount of arrears. No law or precedent was; placed before me in support of this contention. To my mind, the proceedings before the Labour Court were in the nature of proceedings for execution of the terms of settlement and could be instituted in spite of the reference. There appears no bar against the learned Labour Court determining the amount of relief in terms of the statement dated 26-2-66. Moreover, the reference that was pending before the Tribunal was with regard to any further relief beside the interim relief already given. We do not know what the result of the reference was. Lastly, this point should have been urged before the learned Labour Court, and cannot be allowed to be raised in this petition.

7. The third contention advanced is that the claim of the labour was barred by time. u/s 33C(2) of the Industrial Disputes Act, there is, not time limit for making an application to a Labour Court. When the decision of the Labour Court is forwarded by it to the appropriate Govt., then any amount found due by the Labour Court may be recovered in the manner as provided in Sub-section (1) that is as an arrear of land revenue. Thus, the argument that the application for recovery was time barred, was not supported by the relevant provisions of the law.

8. None of the three contentions has any force and the order of the Labour Court cannot be quashed on the basis of any of these contentions.

9. As regards the notices dated 20th May, 1971, and 26th July, 1971, they do not purport to compel anything except; that the Regional Labour Commissioner has stated that the money if not paid within 15 days shall be recovered as arrear of land revenue. There is nothing in them which calls for interference by the Court. The learned Counsel submitted that in pursuance of this letter the Tehsildar has already started recovery from the petitioners. May be so, but in that event it was incumbent upon the petitioners to pray for cancellation of the recovery certificate. They have not even cared to file a copy thereof.

10. I, therefore, do not consider it a fit case in which the extra-ordinary powers of the High Court to issue a writ of certiorari should be exercised. No case for contravention of any provision of the law has been made out. The writ petition is,

consequently, dismissed but without any order as to costs.