
(1962) 05 AHC CK 0009
In the Allahabad High Court

Lord Krishna Sugar Mills Ltd.

APPELLANT

Vs

Industrial Tribunal (Textiles) and Others

RESPONDENT

Date of Decision : 14-05-1962

Acts Referred:

Industrial Disputes Act, 1947 — Section 26E

Citation : (1962) 2 LLJ 708

Hon'ble Judges : Jagdish Sahai, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jagdish Sahai, J.—The petitioner is the Lord Krishna Sugar Mills, Ltd., a company registered under the Indian Companies Act (hereinafter referred to as the mills). The workmen working in the warping section of this mills are members of a registered trade union known as Capra Mills Mazdoor Union, Saharanpur, while the workmen working in the weaving section of the mills are members of a different union known as the Lord Krishna Textile Mills "Porkers" Union, Saharanpur. It is alleged that the workmen employed in the weaving section are paid according to piece rates, i.e., according to the work turned out by them. The workmen of the warping section brought about a go-slow in their section with the result that the quantity of warp reaching the weaving section decreased and the production in the weaving section was also correspondingly affected. The workmen of the weaving section went on strike on 24 July 1957, according to the mills, without giving any notice to the management. The management of the mills wanted to take disciplinary action against the workmen concerned for the strike but on the advice and suggestion of the Regional Conciliation Officer, Meerut, an agreement was arrived at between the workmen and the management on 30 July 1957 in accordance with which the workmen resumed their duties and assured that in future they will not resort to any such strike without notice as provided under the law. On their part the management also undertook not to punish any workmen by taking disciplinary action in connexion with the strike. At the instance of the Lord Krishna Textile Mills Workers' Union,

the Deputy Labour Commissioner (Industrial Relations) on 2) December 1957 referred the following matter of dispute for adjudication by the industrial tribunal (textiles), Allahabad:

Whether the employers are responsible for the loss in the earning of the weavers daring the months of June and July 1957? If so, to what relief are the workmen entitled?

2. The Industrial tribunal (textiles) framed the following issues in the case:

(1) (a) Did the workmen in the section preparatory to the weaving department, adopt go-slow tactics during the months of June and July 1957?

(b) If so, was this the reason for shortage of work in the weaving department proper during these two months?

(2) How exactly are the weavers of the weaving department responsible for shortage of work during the months of June and July 1957?

3. The tribunal gave an award on 19 March 1958. The relevant clauses of the award are as follows:

(1) that the weavers in the weaving department of Lord Krishna Textile Mills are entitled to be compensated by the employers for the loss in their earnings during the months of June and July 1957;

(2) that they shall be compensated for the loss by payment to them of the difference in the wages actually earned by them during those two months and the wages which they would have earned on the basis of their average earnings during the months of January to April 1957;

(3) that the employers shall also pay a sum of Rs. 100 (rupees one hundred) only on account of the cost of the proceedings; and

(4) that the compensation and the cost awarded shall be paid by the employers within a period of one month from the date of coming into operation of this award.

4. The award of the tribunal was published in the Uttar Pradesh Gazette dated 19 April 1958. By means of this petition it is prayed that the award of the industrial tribunal dated 19 March 1958 and the order of the Government dated 19 April 1958 be quashed. There is also a prayer for the issue of a writ of mandamus restraining the respondents from enforcing the award of the tribunal dated 19 March 1958 and the order of the Government dated 19 April 1958. In addition there is the usual prayer for the issue of any other writ, or direction as this Court may in the circumstances of the case deem fit and proper to issue.

5. Two counter-affidavits and a rejoinder affidavit have been filed in the case. It is not necessary to mention the various allegations made in the counter-affidavits or in the rejoinder affidavit. Reference will be made to such of the allegations as will be relevant for the decision of the case.

6. Mr. Shanti Bhushan who has appeared for the petitioner in the case has not pressed grounds Nos. 1 to 4 in the petition. His submission had been confined to grounds Nos. 5 to 9. In connexion with those grounds he had made the following submissions:

(1) The tribunal contravened the principles of natural justice in not permitting the petitioner to produce evidence in rebuttal in order to meet the point raised by the workmen in their evidence.

(2) The tribunal erred in not giving a categorical finding on the question as to whether there was a go-slow by the workmen of the warping section, and if so, to what extent the loss in the earnings of the weavers could be attributed to this.

(3) The management cannot be made responsible for any consequences which ensue to the workmen on account of a slowing down of production on the part of workmen in any part of the establishment.

(4) There was no evidence to support the findings of the tribunal that there was any short supply of stores or that there was a short supply of wefts.

7. I will take the submissions seriatim:

So far as the first submission is concerned, it may be stated that after the mills had produced its evidence and before the workers had produced theirs, an application was made by the management of the mills, a true copy of which has been filed and marked as annexure I to the counter-affidavit sworn by Sri Vidyadhar Agnihotri. This application reads as follows:

It is respectfully submitted as under-

(1) That the union did not produce any evidence on 24 February 1958, the last date of hearing.

(2) That the management closed its evidence on 24 February 1968, and if the union is allowed to produce evidence at this stage, it would mean re-opening the whole case. The union not having disclosed its case in its turn, its evidence at this stage could work against the management. As the management would not be in a position to meet the same by its own evidence:

It is, therefore, prayed that suitable orders may kindly be passed in the interests of justice and fairplay, for proper disposal of the case.

Submitted by

(Sd.) [Illegible] The L.K. Textile Mills, Saharanpur.

8. It is admitted that after the workers had closed their evidence no application was made by the management of the mills for examining any evidence. In the application which have reproduced above no prayer was made by the management of the mills to permit them to produce evidence after the workmen had led theirs. The tribunal passed the following order on the application

mentioned above:

This application is mis-conceived. Parties have disclosed their respective cases in their written statements and rejoinders. Necessary issues were framed thereafter. The burden of proving all these issues was on the employer. They had, therefore, started with their witnesses on the last date of hearing and closed their evidence. It is in the ordinary course of things that the workmen should produce their evidence in rebuttal of that is coming from the side of the employers. I fail to understand the Import of this application.

Rejected.

9. It is therefore not a case where the management of the mills wanted to produce evidence in rebuttal. In fact no request was made to the tribunal to permit the mills to lead evidence in rebuttal. In my opinion there is no substance in the first submission of the learned Counsel.

10. There is no principle of natural justice which requires a tribunal to direct a party to produce evidence in rebuttal even if that party does not ask for such a permission and even though the burden is upon that party. Mr. Asif Ansari who has appeared for the respondents has brought to my notice a large number of authorities on the question of principles of natural justice. It is not necessary to notice those authorities because I have already found in this case that no desire whatsoever was expressed by the management of the mills to lead evidence in rebuttal, it is well established that there can be no hard and fast notions in respect of the principles of natural justice and they vary from case to case in view of the statutory provisions that govern the case. See *Nagendra Nath Bora and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others*, . *The Judicial Committee in University of Ceylon v. E.F.W. Fernando* (1960) II W.L.E. 223, had occasion to consider that in the absence of a request to cross-examine witnesses the mere fact that the witnesses were not cross-examined could or could not amount to violation of the principles of natural justice. The Privy Council held that if no request for cross-examination was made and for that reason no cross-examination was addressed to the witnesses there was not any infringement of the principles of natural Justice. I, therefore, overrule the first submission of the learned Counsel for the petitioner.

11. Coming to the second submission, it may be stated that it is not correct to say that the tribunal has not considered the question as to whether there was a go-slow by the workmen of the warping section or not. The award of the tribunal shows that it has addressed itself to that issue. The mere fact that the mills or their Counsel do not consider that finding of the tribunal to be categorical cannot justify interference in the case by this Court. In my judgment there is no justification for the submission that the tribunal has not recorded any finding in respect of that matter. The second submission therefore is rejected.

12. Mr. Shanti Bhushan has admitted that neither Section 6M of the Uttar Pradesh Industrial Disputes Act nor Section 26E of the Industrial Disputes Act

(Central) applies to the facts of the case. All that he has contended is that the principles of those sections warrant the conclusion that the management cannot be held responsible for any consequences which ensue to the workmen on account of slowing down of production on the part of workmen in any part of the establishment. Those sections admittedly do not apply to the facts of the case before us. If the sections do not apply their principle so called or spirit will certainly not apply--see *Rananjaya Singh Vs. Baijnath Singh and Others*, . In this connexion it would be helpful to produce the finding of the tribunal:

So far as their allegation of go-slow move in the warping section is concerned, the employers have not produced any direct and proper evidence on the point. They have not also explained why exactly the workmen in the warping section went slow. It is admitted that, like weavers, the workmen in the warping section are also paid at piece rates. If they go-slow, therefore, they injure their interest. When the employers made an allegation that the workmen in the warping section went slow during the months of June and July, it was clearly necessary for them to explain the circumstances under which and reasons for which they had done so. This they have failed to do.

13. In view of this finding there is no substance in the third submission of the learned Counsel also.

14. Coming to the last submission, it may be stated that learned Counsel has failed to show that there is in fact no evidence in support of the finding recorded by the tribunal. It is not a case where there is no evidence in support of the finding. Nothing has been brought to my notice which renders the award either without jurisdiction or one in which a mistake of law is apparent on the face of the record.

15. Having carefully perused the award and having considered the submissions made by learned Counsel for the petitioner mills, I am satisfied that there are no just grounds for quashing the award. That being so, the petition is dismissed with costs.