
(1960) 12 AHC CK 0015
In the Allahabad High Court

Lord Krishna Sugar Mills, Ltd.

APPELLANT

Vs

Labour Court and Others

RESPONDENT

Date of Decision : 16-12-1960

Acts Referred:

Industrial Employment (Standing Orders) Act, 1946 — Section 13A

Citation : (1962) 1 LLJ 678

Hon'ble Judges : Jagdish Sahai, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jagdish Sahai, J.—The respondent 2, Bharat Singh was an employee of the petitioner, the Lord Krishna Sugar Mills Limited Saharanpur (hereinafter referred to as the mills). Finding him guilty of misconduct, the management of the mills dismissed him with effect from 27 November 1958. The conciliation proceedings started in this connexion proved to be infructuous and the regional conciliation officer reported to the State Government accordingly. The Government did not make a reference u/s 4K of the Uttar Pradesh Industrial Disputes Act (herein below referred to as the Act) and apparently closed the file. The respondent 2, however, made an application to the labour court Meerut on 21 October 1959, purporting to be u/s 11C of the Act praying "that "the charge-sheet on the basis of which the petitioner was dismissed. the order suspending him, dated 21 November 1958 and the one dismissing him from service, dated 2 December 1958, be set aside. On this application, notice was issued to the mills which raised a preliminary objection to the effect that the labour court (respondent 1) had no jurisdiction to inquire into the matter. Overruling the preliminary objection and after going into the merits of the application, respondent 1 by an order, dated 12 May 1960, held that the order of dismissal was illegal and without jurisdiction and that respondent 2 continued to be In service and was entitled to his wages from 27 November 1958 onwards. It is against that order that/the present writ petition has been filed with a prayer that it be quashed and a writ of mandamus be issued directing the respondent not to have the order,

dated 12 May 1960, enforced against the petitioners.

2. Only one submission has been made on behalf of the petitioners and that is that the order passed by respondent 1 is without jurisdiction as it is beyond the scope of the powers conferred on a labour court by Section 11C of the Act. Section 11C along with some other provisions was brought on the statute book by Section 10 of the Uttar Pradesh Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (Uttar Pradesh Act I of 1967). It reads as follows:

Section 11C.--If any question arises as to the application or interpretation of a standing order certified under the Industrial Employment (Standing Orders) Act, 1945, any employer or workman may refer the Question to anyone of the labour courts specified for the disposal of such proceedings by the State Government by notification in the official Gazette, and the labour court, to which the question is so referred, shall, after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.

3. It will contribute to a correct determination of the scope of Section 11C if it were mentioned at the outset that this provision is very similar to Section 13A of the Industrial Employment (Standing Orders) Act, 1946 (hereinafter referred to as the Central Act). That provision reads as follows:

Section 13A.--If any question as to the application or interpretation of a standing order certified under this Act, any employer or workman may refer the question to anyone of the labour courts constituted under the Industrial Disputes Act, 1947, and specified for the disposal of such proceeding by the appropriate Government by notification in the official Gazette, and the labour court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the Question and such decision shall be final and binding on the parties.

4. So far as the State laws are concerned, there is no Act similar to the Central Act. The Uttar Pradesh legislature, therefore, introduced in substance the provisions of Section 13A of the Central Act in our Act by means of Section 11C. Section 13A of the Central Act has never been held to be applicable for deciding industrial disputes. The long title of the Central Act is:

An Act to require employers in industrial establishments formally to define conditions of employment under them.

5. Its preamble reads as follows:

Whereas it is expedient to require employers in Industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them.

6. The object of Section 13A of the Central Act is not to provide a forum for deciding industrial disputes but only to provide a procedure by which labour court

could decide doubtful questions relating to the conditions of employment and interpret standing orders so that the stage of industrial dispute may not be reached at all. I have no difficulty in holding that the scope of Section 11C of our Act is not wider than that of Section 13A of the Central Act and Inasmuch as the Central Act does not deal with industrial disputes, Section 13A cannot possibly have any application to those disputes and its counterpart. Section 11C of our Act also has got nothing to do with Industrial disputes.

7. It is common ground that in this case what was decided by the labour court was an industrial dispute. There cannot also be any doubt that In respect of the dispute giving rise to this petition, a reference could have been by the State Government either to a labour court or to an industrial tribunal u/s 4K of the Act and an award made u/s 6 of the Act by the labour court or the tribunal to whomsoever the dispute had been referred. Section 11C does not speak of industrial disputes but only of the application or interpretation of a standing order. In other words, there is nothing in the section to show that under it an industrial dispute can be decided. The words "If any question arises as to the application or Interpretation of a standing order" occurring in Section 11C do not to my mind comprehend an industrial dispute.

8. Industrial dispute has been defined In Clause (1) of Section 2 of the Act which reads as. follows:

"Industrial dispute" means any dispute or difference between employers and employees, or between employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person; but does not include an Industrial dispute concerning

(i) any industry carried on by or under the authority of the Central Government or by a railway company; or

(ii) such controlled industry as may be specified in this behalf of Central Government; or

(iii) banking and insurance companies as defined In the Industrial Disputes Act, 1947; or

(iv) a mine or an oil field.

It Is obvious that the words used in the definition clause are of widest amplitude and make the definition thoroughly comprehensive with the result that even cases where no question either of application or interpretation of a standing order is invoked may be industrial disputes. This position is conceded to even by the learned Counsel for the workmen. He has, however, submitted that Section 11C would be applicable to those cases of industrial disputes In which the application or interpretation of a standing order may be involved. To my mind this submission is not correct. By merely interpreting or deciding about the applicability of a standing order, an industrial dispute cannot be adjudicated

upon. The labour court u/s 11C has no other or greater power than to decide about the application or Interpretation of a standing order. In deciding an Industrial dispute the labour court may have to interpret or decide about the applicability of a standing order but its functions do not end at that. The finding with regard to the interpretation or application of a standing order will be something in the nature of a decision on one of the issues in a case and cannot operate as a decision of the case itself. Before an industrial dispute is decided, the labour court would, in addition to Interpreting or deciding about the applicability of a standing order, also have to decide as to who has Infringed the standing order and what are its consequences on the case of the parties and then to pass an order or make an award calling upon the parties to do particular acts or to act in a particular manner. For all these additional matters there is no provision in Section 11C of the Act which only provides for application or interpretation of a standing order and stops short at that. The decision with regard to the interpretation or application of a standing order cannot be decision with regard to an industrial dispute. In other words, the decision in an Industrial dispute is bound to be much more comprehensive than a mere decision with regard to the application or Interpretation of a standing order. Giving the words occurring in Section 11C their plain meanings, the conclusion seems to be inevitable that the functions of the labour court under that section do not extend to the decision of an industrial dispute.

9. It is not necessary that every dispute with regard to the application or interpretation of a standing order may ripen into an industrial dispute. It appears to me that Section 11C was intended to provide for those cases where there is some difficulty or doubt with regard to the application or interpretation of a standing order but the stage of industrial dispute has not been reached. The labour court in those cases can decide the matter and the decision becomes binding on the parties.

10. The provisions which deal with industrial disputes are Sections 4K and 6 of the Act, the former providing for the reference of an industrial dispute and the latter dealing with the manner in which the award is to be made by a labour court or an industrial tribunal. Having provided for industrial disputes in Sections 4K and 6, the legislature would not have provided for the same thing in Section 11C of the Act. It is well known that the legislature does not usually repeat itself nor provides for the same thing by enacting two parallel provisions in the same Act. No answer has been given to the question, and probably none could be given to it, as to why was it necessary to enact Section 11C if its purpose was the same as that of Sections 4K and 6 of the Act.

11. The procedure envisaged by the Act for the adjudication of an industrial dispute is very elaborate. No private party can refer an industrial dispute for adjudication to a labour court or an industrial tribunal. It is only the State Government which can refer an Industrial dispute to a labour court or an industrial tribunal u/s 4K of the Act. u/s 6 of the Act, the labour court or the

tribunal has to submit its award to the State Government and it is only when the award is published in the State Gazette as required by Sub-sections (3) and (4) of Section 6 that the award becomes operative. The award of a labour court or tribunal has got to be in writing and is required to be signed by the presiding officer. As against this Section 11C does not require a reference to be made by the State Government, does not speak of an award but only of a decision and does not even require it to be in writing or to be signed by the presiding officer. The decision u/s 11C becomes binding immediately it is pronounced and need not be referred to the State Government nor is it published in the State Gazette. It is difficult to understand as to why there is such a marked difference in the procedure contemplated by Sections 4K and 6 on the one hand and Section 11C on the other, if the purpose of the two provisions was the same. It would also be noticed that whereas Section 6(5) of the Act provides that an award published under Sub-section (3) by the State Government shall be final and shall not be called in question in any Court in any manner whatsoever, all that is provided for in Section 11C is that "such decision shall be final and binding on the parties." It is obvious that greater sanctity has been attached to an award made u/s 6 than to a decision u/s 11C of the Act. That is so because a decision u/s 11C may be open to revision and may be reversed while deciding an industrial dispute, but an award is final for all purposes and can neither be revised u/s 11C of the Act nor by any Court of law. Lastly the use of the word "decision" in Section 11C and not of "award" clearly shows that an industrial dispute cannot be decided under the provisions of Section 11C of the Act. The word "award" has been defined in Section 2(c) of the Act in the following words:

"Award" means an Interim or final determination of any Industrial dispute or of any question relating thereto by any labour court or tribunal and includes an arbitration award made u/s 5B.

The definition makes the word "award" a term of art and any interim or final determination of any industrial dispute cannot be called by any other name than that of "award." Consequently, when the legislature did not use the word "award" in Section 11C, it clearly intended that an Industrial dispute could not be determined u/s 11C of the Act.

12. For the reasons mentioned above, I have come to the conclusion that respondent 1 had no jurisdiction to pass the order, dated 12 May 1960. I consequently allow the petition and quash that order. In view of the fact that there is no direct authority on the point and the case is one of first impressions, I direct the parties to bear their own costs.