

(1956) 02 AHC CK 0025
In the Allahabad High Court

Lord Krishna Sugar Mills Workers" Union	APPELLANT
Vs	
State Industrial Tribunal and Others	RESPONDENT

Date of Decision : 06-02-1956

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 2

Citation : (1957) 1 LLJ 618

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.L. Chaturvedi, J.—This is a petition under Article 226 of the Constitution.

2. The petitioner is a union of the workmen employed in the Lord Krishna Sugar Mill ,Ltd., Saharanpur. There was a strike in the sugar mills on the night of 28 March 1955 and this strike appears to have come to an end on 7 or 8 April 1955. The management of the mills deducted wages of the workmen for these eight days and also referred to the Government the question that the mills had suffered a great deal because of this strike and it claimed damages from the workmen for this illegal strike. On 2 September 1955 the Government referred the following dispute for adjudication to the State industrial tribunal:

Whether the employers have been wrongfully and/or unjustifiably put to any loss due to the sudden strike staged by their workmen from 29 March 1955? If so, to what extent are their workmen responsible for it and in what manner they should compensate the employers?

On receipt of the reference, the industrial tribunal issued notice to the parties and the petitioner raised a preliminary objection to the continuance of the proceedings on the ground that the reference was not with respect to any industrial dispute. The question was argued before the industrial tribunal and on 22 November 1955, the tribunal passed an order refusing to decide the issue of

jurisdiction as a preliminary issue in the case. What it says is that it is a question of fact whether there were any express conditions of service between the parties the breach of which would entitle the employers to any relief, and this question cannot be decided without taking evidence. In the present petition, it is prayed that this order be quashed and a writ of prohibition be issued to the State industrial tribunal directing it to refrain from hearing the dispute referred to it by the State Government. In the alternative it is prayed that a writ in the nature of mandamus be issued directing the industrial tribunal to decide the preliminary objection relating to its jurisdiction.

3. In support of the petition, the learned Counsel for the petitioner has argued that the dispute referred by the Government does not come within the definition of "industrial dispute" as defined in Section 2(k) of the Central Industrial Disputes Act of 1947. "Industrial dispute" is defined in this clause as meaning

any dispute or difference between employers and 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.

The argument of the learned Counsel is that a dispute of the nature referred by the State Government cannot be said to be connected with "the employment or non-employment or the terms of employment or with the conditions of employment" as have been laid down by the State Government with respect to the employees of sugar factories in the notification dated 1 October 1951, issued u/s 3 of the Uttar Pradesh Industrial Disputes Act. I do not think that this contention of the learned Counsel is correct because the notification says:

The Governor is pleased to order that every vacuum pan sugar factory in Uttar Pradesh shall observe the standing orders governing the conditions of service contained in the annexure appended thereto in respect of the employment of their workmen.

The above quotation would show that the direction is only given to the vacuum pan sugar factories to carry out the terms of the standing orders given in the annexure, but there is no direction issued against the workmen at all and no duties and liabilities of the workmen have been laid down in this notification. It cannot, therefore, be said that this notification contains all the terms and conditions of employment.

4. It was then contended that, according to the Trade Union Act, no person who has instigated any strike will his liable to damages for this action. That provision lays down only the law which is to be applied to instigators of strike and it has no reference to any liability of the workmen themselves, who go on a strike, for any loss that the employer may have suffered due to the strike. The legal position appears to be that a strike without notice is illegal and it is possible for the tribunal to hold that this was an illegal strike, If by the commission of an illegal act, loss is suffered by the employer it might be argued that the employer is

entitled to obtain damages which he suffered by the illegal act of the workmen. The dispute itself is essentially an industrial dispute because it refers to a strike by the workmen. After going through the evidence it is possible for the industrial tribunal to hold that there is a term of employment, express or implied, which prohibits the workmen from going on an illegal strike.

5. Because of the reasons given above, I am unable to hold that the dispute is necessarily one which does not come within the definition of an "industrial dispute" within the meaning of Clause (k) of Section 2 of the Central Industrial Disputes Act. In the circumstances, no writ of prohibition can be issued to the State industrial tribunal, as prayed by the petitioner. The tribunal has said that it will decide this issue after taking evidence and this, to my mind, is a reasonable order.

The petition is rejected.