
(1992) 01 AHC CK 0044
In the Allahabad High Court
Case No : C.M.W.P. 5060 of 1990

Mathura Refinery Mazdoor Sangh and Another	APPELLANT
Vs	
Dy. Chief Labour Commissioner	RESPONDENT

Date of Decision : 31-01-1992

Acts Referred:

Industrial Employment (Standing Orders) Act, 1946 — Section 4

Citation : (1992) 2 AWC 949 : (1995) 3 LLJ 831

Hon'ble Judges : D.P.S. Chauhan, J

Bench : Single Bench

Advocate : Bhoopendra Nath, for the Appellant; S.C. and Vijay Ratan Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

D.P.S. Chauhan, J.—By means of this petition, three petitioners have approached this Court under Article 226 of the Constitution for seeking a direction in the nature of certiorari quashing Clause 20.8 of the certified Standing Orders of the Respondent No. 2 and also for the quashing the order of Respondent No. 1 dated 20.10.89 which is annexed with the petition as Annexure-1.

2. For certification of the Standing Orders pertaining to the employees of M/s. Mathura Refinery under the provisions of Industrial Employment (Standing Orders) Act, 1946 (for brevity hereinafter referred to as "Standing Orders"). Steps were taken by the Indian Oil Corporation before Certifying Officer, who, after hearing the Oil Corporation and the representatives of the Registered Trade Union, certified the Standing Orders on 31.1.1985. Thereafter, an appeal was preferred by the Indian Oil Corporation before the Dy. Chief Labour Commissioner, New Delhi under provision of Section 6 of the Standing Orders. The Dy. Chief Labour Commissioner after hearing both the parties confirmed the Standing Orders certified by the Certifying Officer with modification and the modification as inserted was to the following effect:-

"Where a workman has been convicted for a criminal offence of grave nature in a Court of Law or where the General Manager is satisfied for reasons to be recorded in writing that it is neither expedient nor in the interest of security to continue the workman, the workman will be removed or dismissed from service without following the procedure laid down under Clauses 17.3 to 17.7 of these Standing Orders."

3. I have heard the learned counsel for the parties.

4. Learned counsel for the petitioner raised twofold submissions. Firstly, the notice under Rule 7-A of Sub-clause 3(a) of the Industrial Employment (Standing Orders) Central Rules, 1948 (for brevity hereinafter referred to as the Rules), was not given to all the Trade Unions and while making submission he laid emphasis on the word " Trade Unions" used therein and submitted that it is purposely used in plural. Secondly, the appellate authority had not adjudicated upon the fairness and reasonableness of the provision of Standing Orders as required u/s 4 of the aforesaid Act.

5. So far as question of giving an opportunity under Rule 7-A of Sub-clause 3(a) of the Rules, is concerned, the notice was given to the registered Trade Union, which was in existence at the relevant time. In the petition, it is nowhere stated that before the Certifying Officer no Trade Union was heard and further it has not been stated that the petitioners approached the Certifying Officer before certification of the Standing Orders. The case of the respondent, as set up in paragraph 3 of the counter-affidavit, is that the Petitioner No. 1 was the union of Contractors workmen and it has no locus standi to challenge the Standing Orders, which have been made final in the appeal. The petitioner No. 2 is a Union which came into existence subsequently and, therefore, there was no question of giving of any notice of opportunity to such a Union, which was not in existence at the relevant time. The petitioner No. 3 is a member of a recognized Union, which was heard by the Certifying Officer as well as by the appellate authority and, therefore, this petitioner has also no locus standi to maintain the petition. Thus, the argument has got substance. In the rejoinder affidavit it has not been stated as to what interest of the petitioner No. 1, Union Contractors Workmen, was involved. Further it has not been stated that the Petitioner No. 2 was in existence before the proceedings for certification of the Standing Orders were taken. Thus, I am of the view that these petitioners have no locus standi in the matter to be heard and to maintain the petition.

6. The second submission of the learned counsel for the petitioner is regarding fairness and reasonableness of the provisions, which have been added by the appellate authority in the certified Standing Orders. Learned counsel for the petitioner submitted that the appellate authority had not adjudicated upon the fairness and reasonableness of the provision, which has been inserted, though with the consent of the parties. The provision, as quoted above, clearly states that the authorities may pass the order on being satisfied for the reasons to be recorded in writing. I do not find any unfairness in the provision.

7. Learned Counsel for the respondents submitted that u/s 10 of the aforesaid Act, the Standing Orders finally certified are not liable to be modified until the expiry of six months from the date on which the Standing Orders came into force. It is admitted that six months have already lapsed to the certification of the Standing Orders and if the parties are aggrieved then it is always open for them to move for modification before the Certifying Officer. I am not inclined to interfere as there is no inconsistency, unfairness or unreasonableness and it is always open to the concerned persons to approach for modification.

8. I do not find any force in the petition. The petition is accordingly dismissed. There will be no order as to costs.