

(1991) 11 AHC CK 0026
In the Allahabad High Court
Case No : C.M.W.P. No. 12030 of 1983

Meerut Dist. Co-operative Bank Ltd.

APPELLANT

Vs

Labour Court and Others

RESPONDENT

Date of Decision : 16-11-1991

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Uttar Pradesh Industrial Disputes Act, 1947 — Section 4K, 6A, 6D

Citation : (1992) 1 AWC 181 : (1992) 65 FLR 41 : (1995) 3 LLJ 57

Hon'ble Judges : R.A. Sharma, J

Bench : Single Bench

Advocate : V.B. Singh, for the Appellant; K.P. Agarawal and A.K. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

R.A. Sharma, J.—Sri Raj Ball Gupta, respondent No. 3 (hereinafter referred to as the workman) who was Chief Accountant of Meerut District Co-operative Bank Ltd. (hereinafter referred to as the Bank), was dismissed from service on 1.9.1970 by the Bank. The dismissal of the workman led to a reference made u/s 4-K of the U.P. Industrial Disputes Act (equivalent to Section 10 of Central Industrial Disputes Act), by the Government of U.P. by order dated 28.5.1971 to the Labour Court, Kanpur, of which Sri Aftab Ahmad was the Presiding Officer, Sri Aftab Ahmad retired during the pendency of the adjudication proceeding and in his place Sri S.H.I. Naqvi was appointed as the Presiding Officer of the Labour Court. After Sri Naqvi joined the Labour Court as its Presiding Officer the Government of U.P. withdrew its earlier reference and made fresh reference to the same Labour Court of which Sri Naqvi was the Presiding Officer and the case was registered as Adjudication No. 337 of 1973. By an order dated 19.9.1978 this case was transferred to the Labour Court, Meerut of which Sri Ram Chandra was the Presiding Officer, where it was numbered as Adjudication No. 554 of 1978. During the pendency of this case Sri Ram Chandra also retired and in his place Sri Mohammed Ahsan was appointed as the Presiding Officer of the Labour

Court. An objection was raised by the Bank before Sri Mohammed Ahsan that as the reference was made by the Government to another Presiding Officer he has no jurisdiction to proceed with the case. This objection was accepted and the case was ordered on May 17, 1982 to be consigned to the Record Room. The workman made an application for recalling the aforesaid order dated 17.5.1982. The Bank filed objection against this application. The Labour Court allowed the application by order dated 8.8.1983 and re- opened the Adjudication case. It is against this order that the Bank has filed this writ petition before this Court.

2. The learned counsel for the petitioner has challenged the impugned order on the ground that after the adjudication case, pending before the Labour Court, was consigned to the Record Room on May 17, 1982, the reference came to an end and the Labour Court became functus officio and it was not open to the other presiding-officer of the Labour Court to review that order and reopen the case. The learned counsel for the workman has, however, disputed the aforesaid submissions.

3. u/s 4-K of the Act the Government can refer a dispute to the Labour Court or Tribunal for adjudication. Reference is not made to the Presiding Officer, Section 4-K of the U.P. Industrial Disputes Act is as follows:-

"4-K. Reference of disputes to Labour Court or Tribunal. - Where the State Government is of opinion that any industrial dispute exists or is apprehended, it may at any time by order in writing refer the dispute or any matter appearing to be connected with, or relevant to, the dispute to a Labour Court if the matter of industrial dispute is one of those contained in the First Schedule, or to a Tribunal if the matter of dispute is one contained in the First Schedule or the Second Schedule for adjudication:

Provided that where the dispute relates to any matter specified in the Second Schedule and is not likely to affect more than one hundred workmen, the State Government may, if it so thinks fit, make the reference to a Labour Court."

It is thus apparent that a reference can be made to the Labour Court/Industrial Tribunal and not to any particular Presiding Officer. Mention of a particular Presiding Officer in the order of reference is superfluous, uncalled for and is liable to be ignored. As the dispute can be referred to the Labour Court or the Tribunal the retirement, resignation or removal of their Presiding Officer cannot affect the pendency of the adjudication case before these ad-judicatory bodies. A dispute once referred to the Labour Court/Tribunal comes to an end only after the publication of the Award of the Labour Court. In this connection reference may be made to the Section 6-D of the Act which is reproduced below:

"6-D. Commencement and conclusion of proceeding-proceedings before a Labour Court or Tribunal shall be deemed to have commenced on the date of reference of a dispute to adjudication, and such proceedings shall be deemed to have concluded on the date of which the award becomes enforceable u/s 6-A."

The effect of this Section is that proceeding before the Labour Court or the Tribunal commences on the date of reference of the dispute, and these proceedings come to an end only on the date on which the award becomes enforceable. It is not open to any Labour Court or the Tribunal to terminate the proceedings before making the award. The order dated May 17, 1982 whereby the case was consigned to the Record Room, cannot have the effect of terminating the proceedings before the Labour Court.

4. It is true that some times the phrase "consign to the Record Room" is used for "terminating the proceedings, but in the instant case such a meaning cannot be accepted, for two reasons, viz (i) Section 6-D of the Act prohibits the termination of the proceedings of dispute before the Labour Court or the Tribunal except when the award becomes enforceable u/s 6-A of the Act; and (ii) if Mr. Mohd. Ahsan, the then Presiding Officer of the Labour Court, had no jurisdiction to deal with the dispute referred to the Labour Court, he has no authority to pass the order dated May 17, 1982 consigning the case to the Record Room. In view of the facts and circumstances of the case the order dated May 17, 1982 has to be interpreted to mean that Sri Mohammed Ahsan, the then Presiding Officer, declined to proceed with the case, referred to the Labour Court on the assumption that he is not legally competent to try the case. If the order dated May 17, 1982 is to be treated as an order dismissing the adjudication case referred to the Labour Court, such an order is a nullity and is liable to be ignored.

5. The impugned order dated 8.8.1983, whereby the case was re-opened, cannot be said to be an order of review. As the earlier Presiding Officer by order dated May 17, 1982, has directed the case to be consigned to the Record Room an order has to be passed for re-opening the case. The Labour Court was fully justified to re-open the case by the impugned order.

6. The writ petition lacks merit and is accordingly dismissed with costs. The stay order dated 3.10.1983, which was confirmed on 31.7.1986, is discharged. As the dispute is pending before the Labour Court for the last about 20 years it is appropriate that the Labour Court, respondent No. 1, should decide the dispute expeditiously. I accordingly direct the Labour Court, respondent No. 1, to decide the dispute within a period of six months from the date of presentation of the certified copy of this judgment. The petitioner and the respondent No. 3 are directed to co-operate with the Labour Court so as to enable it to conclude the proceedings within the time specified above.

Petition disposed of.