
(1965) 12 MP CK 0017
In the Madhya Pradesh High Court

Mishra (R.N.)

APPELLANT

Vs

Burn and Co. Ltd. Refractory and Ceramic Works

RESPONDENT

Date of Decision : 17-12-1965

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1968) ILR (MP) 852 : (1966) JLJ 308 : (1966) 1 LLJ 622 : (1966) 11 MPLJ 601

Hon'ble Judges : P.V. Dixit, C.J.; R.J. Bhawe, J

Bench : Division Bench

Judgement

P.V. Dixit, C.J.

This application under Articles 226 and 227 of the Constitution is by an employee of the Burn & Co., Ltd., Niwar, district Jabalpur, (hereinafter called the company), of which the respondent is the works manager. The applicant is also the general secretary of the Burn & Co. Mazdoor Sangh. He seeks a writ of certiorari for quashing the determination of the labour court, Jabalpur, and of the industrial court, Madhya Pradesh, that the Madhya Pradesh Industrial Relations Act, 1960 (hereinafter referred to as the Act), applies to Burn & Co. Ltd., Niwar, district Jabalpur, an undertaking styled as "refractory and ceramic works" and engaged in the manufacture of fire-bricks, and, therefore, the labour court has jurisdiction to entertain an application filed by the works manager under Sections 61(1)(A) and (C) and 80 of the Act for a declaration that the employees of the company had gone on an illegal strike from 1 March 1965. The petitioner also prays that a direction prohibiting the labour court from entertaining and proceeding with the aforesaid application of the respondent be issued.

Sections 1 and 112 of the Act came into force on 31 December 1960. In regard to other provisions of the Act, Section 1(3) provides that-

(3) This section and Section 112 shall come into force at once and the State Government may, by notification, bring all or any of the remaining provisions of

this Act into force in respect of-

(a) any or all industries; or

(b) undertakings in any industry wherein the number of employees, on any day during twelve months preceding or on the date of the notification or on any day thereafter, was or is more than such number as may be specified in such notification;

on such date as may be specified therein.

On 31 December 1960 itself, the Government issued a notification u/s 1(3) of the Act directing that all the provisions of the Act, other than Sections 1 and 112, shall come into force on 31 December 1960 in respect of undertakings in the industries specified in the schedule to the notification. The schedule specified 22 industries, one of them being "potteries." The industrial court held that the term "potteries," as used in the schedule, had a special and technical meaning, and, relying on some books on "pottery and ceramics" and "pottery manufacture," held that the company, which was engaged in the manufacture of refractory goods, namely, fire-bricks, was an undertaking in the "potteries industry." The learned president of the industrial court recognized that according to the dictionary meaning the word "pottery" did not include "firebricks," but held that the term "potteries," as used in the schedule to the notification issued on 31 December 1960, could not be given the dictionary meaning.

The sole question that arises for determination in this case is whether the Burn & Co., Ltd., "Refractory and Ceramic Works." Niwar, of which the respondent is the works manager and which is admittedly engaged only in the manufacture of fire-bricks, is an undertaking in the "potteries" industry. The answer to the question depends on the meaning to be given to the word "potteries," as used in the schedule to the notification dated 31 December 1960 issued u/s 1(3) of the Act. The question of the denotation of the term "potteries" has to be determined bearing in mind the settled rules regarding construction of words and terms used in a statute, and not with reference to technical books or dictionaries alone ignoring the rules of construction. The first rule is that general statutes will prima facie be presumed to use words in their popular sense. As stated by Lord Tenterden in *Attorney-General v. Winstanley* (1831) 2 D. & Clauses 302 the words of an Act of Parliament which are not applied to any particular science or art "are to be construed" as they are understood in common language." In the *Fusilier* (1865) 34 L.J.P.M. & A. 25 Dr. Lushtngton said:

One of the rules of construing statutes, and a wise rule too, was that they shall be construed *uti loquitur vulgus*, that is, according to the common understanding and acceptance of the terms.

As stated in "Craines on Statute Law" (6th Edn. at p. 162)

Critical refinements and subtle distinctions are to be avoided, and the obvious and popular meaning of the language should as a general rule, be followed.

The other rule is that if an Act is one dealing with a particular trade, business or transaction, in which they are terms which everybody conversant with those matters understands to have a particular meaning, then the words used in that Act must be construed as having that particular meaning which may differ from the ordinary or popular meaning. This rule has been stated in "Craies on Statute Law" at p. 164. In Maxwell on Interpretation of Statutes, (11th Edn.) it has been stated at p. 3 that-

The first and most elementary rule of construction is that it is to be assumed that the words and phrases of technical legislation are used in their technical meaning if they have acquired one, and, otherwise, in their ordinary meaning.

A reference to technical books may no doubt be made for understanding the meaning of technical terms. But in construing a statute not dealing with a particular trade or business or a technical matter, but of a general application, "evidence to inform the Court as to the existence of a technical meaning of ordinary words is inadmissible [see "Maxwell on Interpretation of Statutes" p. 32]. The purpose and subject-matter of a statute necessarily determine and control the meaning of the words used in it, and consequently the words should be construed so as to best attain the purposes of the statute. There is also another rule that when a word is capable of being construed either in its popular sense or as a word of Art it is for those who assert that it is used in a technical and not in a popular sense to establish the fact see *Inland Revenue Commissioner v. Gribble* (1913) 3 K.B. 212.

Now, the Madhya Pradesh Industrial Relations Act, 1930, which regulates the relations of employees in certain matters and makes provision for settlement of industrial disputes and provides for certain other matters connected therewith, is not an Act dealing with a particular industry or an undertaking therein. It is not a technical enactment. It is a general statute regulating industrial relations in any or all industries or undertakings in any industry as may be notified. The Act being a general statute, the words used therein must be construed in their popular sense. Again, as the Act does not apply to all Industries or undertakings therein but only to those which the Government may select for being governed by the Act, the Industries that may be specified in a notification u/s 1(3) must be understood in a limited sense and not in a wider sense.

It is true that, technically speaking, the word "ceramics" means the study of the art of pottery and the term "potteries," in its widest technical sense, includes all objects fashioned from clay and then hardened by fire. Thus in technical language "ceramics" covers fire-bricks, refractories, furnace-lining bricks, chinaware and pottery, sanitary-ware, insulators and tiles. On the other hand, the word "potteries," as popularly understood in ordinary parlance, means a workshop or factory where earthen vessels are manufactured. The dictionary meaning of the word "pottery" is earthenware, and does not include the various items enumerated earlier falling under "ceramics." Chinaware is no doubt included in the term "pottery" as commonly understood. In common parlance,

tiles, sanitary-wares, insulators, fire-bricks, refractories, which are all known articles of commerce and trade, would not ordinarily pass under the name of "pottery." The word "potteries," used in the schedule to the notification issued on 31 December 1960, must, therefore, be construed in its popular sense as meaning an industry engaged in the manufacture of earthenware, pottery-ware or chinaware. It cannot be given a wider connotation so as to include undertakings manufacturing firebricks, refractories, sanitary-wares, tiles, etc., and make the Act applicable to those industries. So to do would be to emasculate the power given to the Government u/s 1(3) to make the Act applicable to such industries, or undertakings in any industry, that it may select. The reason why the legislature has not made the Act applicable to all industries or undertakings therein, but has left to the Government to determine the industry or industries or the undertakings to which it should be applied, is that conditions of work and employment vary from industry to industry, and also from undertaking to undertaking in any industry. It is common knowledge that the nature of work done by the employees in a pottery, and the conditions under which they work, are altogether different from the work which employees, say in a refractory engaged in the manufacture of fire-bricks, do and from the conditions under which the work is done therein. Having regard to the power given to the Government u/s 1(3) of the Act, it would not be right to give a wider connotation to the term " potteries " used in the schedule to the notification dated 31 December 1960.

There is in the schedule to the notification itself an indication to justify the view that the term "potteries" used therein cannot be given a wide connotation. In the schedule, rice-mills, oil-mills and flour-mills have been separately specified. So also an industry engaged in the manufacture of " cement" has been distinguished from an industry manufacturing " asbestos cement" by separate enumeration. Again, in regard to "textile industry," the schedule makes it clear that the word " textile " has been used in an expanded sense by expressly saying that " textile " includes " cotton, silk, artificial silk, Btiple fiber, jute and carpet." Thus it is clear that when the Government intended that a particular industry specified in the schedule should be understood in a wide sense, it expressed that intention by expressly using words of inclusion or qualification in regard to the ordinary name of the industry. If, therefore, the Government intended that the term " potteries " should include fire-bricks, refractories, sanitary-wares, insulators, tiles, etc., it would have adopted the course of widening the scope of the term " potteries " by appropriate words of inclusion. It is still open to the Government to make the Act applicable to fire-bricks, refractories, sanitary-wares, insulators, furnace-lining bricks, etc., by issuing a notification under 3.1(3) of the Act.

For the above reasons, our conclusion is that the term "potteries," as used in the schedule to the notification issued on 31 December 1960 u/s 1(3) of the Act, does not include a "refractory" engaged in the manufacture of fire-bricks, and, therefore, the Act is not applicable to "Burn & Company Ltd., Refractory and Ceramic Works," Niwar, district Jabalpur, which is admittedly engaged in the

manufacture of fire-bricks. The labour court has, therefore, no jurisdiction to entertain and decide the application filed by the respondents Under Sections 61(1)(A) and 61(1)(C) and 80 of the Act.

The result is that this application is allowed, the orders dated 6 May 1965 of the industrial court and the labour court, Jabalpur, dated 29 March 1965, are quashed. The labour court, Jabalpur, is restrained from entertaining and proceeding with the application filed by the respondent under Sections 61(1)(A) and 61(1)(C) and 80 of the Act. The petitions shall have costs of this application. Counsel's fee is fixed at Rs. 150. the outstanding amount of security deposit shall be refunded to the petitioner.