
(1961) 08 P&H CK 0029
In the Punjab And Haryana At Chandigarh

M.K. Textile Mills and Others	Vs	APPELLANT
Punjab State and Others		RESPONDENT

Date of Decision : 10-08-1961

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (1962) 1 LLJ 560

Hon'ble Judges : Dua, J

Bench : Single Bench

Judgement

Dua, J.—These two writ petitions (Civil Writ No. 1391 of 1960 and Civil Writ No. 1392 of 1960) involve common question of law and indeed on behalf of the petitioners only one argument has been addressed with the result that they will both be disposed of by one Judgment.

2. It appears that there were some disputes between the various petitioners and their workmen. The Government by means of a notification, dated 6 May 1960, referred to the industrial tribunal, Punjab, Patiala, for adjudication, the dispute existing between the workmen and the management of 38 factories/establishments (of which a list was enclosed). The question referred was whether the closure or lockout declared by the textile factories/establishments (as per list attached) was justified and to what relief, if any, the workmen who were employed in those factories/establishments prior to the closure or the lookout (as per list attached) were entitled.

3. It is this reference which is being assailed in the present proceedings, and the principal attack by the learned Counsel on behalf of the petitioners is that the dispute between the workmen and each one of the petitioners would constitute a separate dispute, and therefore a joint reference is contrary to law and for this reason invalid. Support for this contention has been sought from Section 10 of the industrial Disputes Act (XIV of 1947). In my opinion, this section, instead of supporting the petitioners' contention, indicates the legal position to the contrary. Sub-section (5) of this Section is in the following terms:

10. (1) * * *

(1A) * * *

(2) * * *

(3)* * *

(4) * * *

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a labour court, tribunal or national tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.

4. Now, if other establishments, group or class of establishments could be included in the reference because of their common interest or there being a likelihood of those establishments, etc, being affected, I do not see any cogent reason against the legality or even propriety of one reference of a common dispute between several establishments and their respective workmen. The counsel failed to bring to my notice any precedent in support of his contention; nor was he able to enunciate any sound principle of law or even of equity in his favour. *M.S. Ganapathi Nadar and Sons Factory and Others Vs. The State of Madras and Others*, and *Delite Cinema v. Rameshwar* AIR 1959 P&H 1093 quoted on behalf of the petitioners had absolutely nothing to do with the proposition urged by the counsel. I have, therefore, no hesitation in repelling the contention as wholly unsound and unsustainable.

5. A lukewarm attempt was made to urge that the reference was bad since there is neither any closure nor any lockout. The facts alleged by the petitioners are being disputed on behalf of the respondents with the result that this Court is not in a position to express any opinion on the contention. Not only is this Court, generally speaking, disinclined to go into disputed facts on a writ petition, but this Court would also refuse to by-pass the normal procedure prescribed by the Industrial Disputes Act and throttle an enquiry into facts by issuing writs of prohibition without a clear-cut prima facie case of want of jurisdiction. On behalf of the respondents, it has been very strenuously urged that, in so far as second point is concerned, the writ is clearly premature and I entirely agree with him.

6. For the reasons given above, therefore, both the writ petitions fail and I hereby dismiss them with costs.