

(1961) 02 P&H CK 0017
In the Punjab And Haryana At Chandigarh

Model Woollen and Silk Mills	Vs	APPELLANT
Industrial Tribunal and Others		RESPONDENT

Date of Decision : 14-02-1961

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 10

Citation : (1962) 1 LLJ 548

Hon'ble Judges : Gosain, J

Bench : Single Bench

Judgement

Gosain, J.—The petitioner-firm, Model Woollen and Silk Mills, Verka, District Amritsar, are carrying on the business of manufacture of woollen and rayon textiles. Certain industrial disputes arose between them and their workers and the same were referred by the Punjab Government for adjudication to the industrial tribunal, Punjab, by means of Notification No. 80-18-C-Lab-58/26035, dated 23 July 1958. Dispute 2, as described in the aforesaid notification, was:

Whether any grades or scales of pay should be fixed for the various categories of workmen? If so, what should be the grades or scales of pay and from what date these should be enforced? Also whether the workmen should be given any increments in these grades for their past service? If so, at what rate?

In respect of this dispute, the petitioner-firm and their workmen came to a settlement and an award in respect of it was made by the industrial tribunal on 19 May 1959, on the basis of the said settlement. By means of this award, the workmen were divided into six categories and scales of pay in respect of each of these categories were fixed. It was further provided that:

It shall be the management's function to fix different designations in any one of these categories. The management shall do it within fifteen days from 18 May 1959, and after fixing different classes or designations in these six categories, they shall put a list of the same on the notice board with a copy to the union under registered cover. The union shall submit their objections, if they have any,

against any such fitting in before the management within ten days from the date of registration of notice to them. The management shall consider the objections and shall decide if all or any are acceptable to them within three days, If any objection made by the workmen or their union is not acceptable to them, then they shall furnish such objections along with their own comments and arguments to each of the three assessors, viz:

(1) R.L. Bhatia, Principal,

(2) Ghetan Anand, and

(3) Dilbagh Ral,

separately under registered cover. The assessors shall decide the points referred to them within seven days after the receipt of such notice and their majority decision shall be considered to be final. If the Workmen or the union wants to submit any arguments to the assessors, they shall be at liberty to do so.

The management thereafter put the various designations under various categories and issued notices with regard to the same as provided for in the award. Some objections Were filed by the union of workers and they Were then disposed of by the three assessors named in the award by means of an order passed by the said assessors on 17 June 1959. Twenty-one workers of the petitioner's concern then made an application to the State of Punjab stating that a dispute had arisen with regard to their designations and the grades of pay and that the said dispute being an industrial one should be referred to the industrial tribunal for adjudication. By means of Notification No. 7591-Lab (I)-60/27418, dated 9 September 1960, the Punjab Government referred the said dispute, along with another dispute which it is not necessary to mention in this judgment, for adjudication to the industrial tribunal. The relevant dispute is mentioned at 2 in the aforesaid notification and is in the following terms:

Whether the following workmen should be designated and placed in the grades and scales as shown against each workman? If so, from which date and what should be the exact quantum of compensation nay-able to each workman?

Below this are given the names of the persons making the claim together with the designation and the grade of pay claimed by each of them. A copy of this notification is annexure D to the petition. The petitioner-firm feeling aggrieved against the said reference has come up to this Court under Articles 226 and 227 of the Constitution of India seeking to have a writ in the nature of mandamus quashing the reference as published in the aforesaid notification of the Government. They also seek to have a writ in the nature of prohibition restraining the Industrial tribunal from proceeding With the reference.

2. The main ground on which the petition la based is that the impugned reference could not be made in view of the previous award, dated 19 May 1959. The petition is opposed both by the State and by the twenty-one workers mentioned in the notification. Their case is that the previous award does not, in

any way, debar the Government from making the reference in question.

3. It is contended by the learned Counsel for the petitioner-firm that certain scales and grades of pay have been fixed by the previous award and they are applicable to all the employees of the petitioner-firm. The award prescribed a procedure by which the employees having different designations could be placed under one or the other of the six categories each having a different scales and grade of pay. The management put the employees having different designations under different categories and objections to the same were finally decided by the three assessors named in the award by means of their order, dated 17 June 1959. He, therefore, urges that the matter of grades and scales of pay of each of the employees of the petitioner-firm was thus finally decided by means of the said award and that the present reference is, therefore, absolutely without jurisdiction. This contention seems to have some force, but it is difficult to find that the dispute, whether each of these twenty-one workers should have the designation claimed by him, was decided by the previous award or that the same cannot be made the subject-matter of a fresh reference. The previous award did not decide which designation each of the employees of the petitioner-firm should have. It is true that the scales or grades other than those mentioned in the previous award cannot be fixed for the various categories of the workmen and that the employees having designations as mentioned in the previous award shall have to be placed in the grades and scales of pay as given in the said award. However, as the previous award has not dealt with the designation of each of the employees, a dispute qua the designation of each of the employees is certainly one which falls within the ambit of S. 10 of the Industrial Disputes Act, which can be referred for adjudication to the industrial tribunal. The dispute with regard to grades and scales of pay of the various categories and the matter as to in what categories the persons having certain specific designations should be placed, cannot be referred.

4. The reference in this case, is, however, severable to that extent inasmuch as it has two distinct portions--

(1) Whether the twenty-one persons mentioned in the notification are entitled to designations claimed by each of them; and

(2) whether these twenty-one persons are entitled to the grades and scales of pay claimed by each of them.

The first portion, i.e., (1) is unexceptionable but the second must be struck down being the one covered by the previous award which is still operative. There is some difficulty, however, with regard to persons mentioned at 8 and 16 to 21 in the said notification. The designations claimed by these persons are not mentioned in the designations placed under various categories in the previous award and their case is that they do not fall under any of the designations mentioned in the previous award as modified by the assessors. Person at 8, changgu Earn, claims to have a designation of "Doubling Mistri," person at 16,

Faqir Chand of a "Washing Machineman," person at 17, Kartar Singh of a "Chakki Machineman," persons at 18, 19 and 30, Mangal Singh, Rur Singh and Hira Singh Claim to be "Washing Maohnemen" and person at 21, Jageshwar, a "Machineman." These designations do not find any mention in the previous award and as the previous award purported to deal with the cases of all the workers. It was obviously their duty at that time to have claimed that their designations, which they now claim, should be placed under one or the other of the six categories. To me It appears that these persons are now trying to wriggle out of the previous award, and by claiming designations different from those mentioned in the previous award, they want to have grades and scales of pay fixed for them in modification of the previous award. The dispute raised by them cannot be said to be clearly severable as is in the case of other persons mentioned in the notification. I think the only correct course for me in these circumstances is to hold that the reference as a whole cannot proceed but that it can proceed to the extent that the tribunal can be asked to decide whether the persons mentioned at 1 to 7 and 9 to 15 in the aforesaid notification are entitled to the designations claimed by them and mentioned in the notification.

5. I would, therefore, allow the petition to the extent that appropriate writs will issue both to the State of Punjab and the industrial tribunal enjoining upon them to limit the scope of reference only to the point whether the workers mentioned at 1 to 7 and 9 to 15 in the aforesaid notification are entitled to designations claimed by them. The rest of the reference is quashed. Government will, however, be at liberty to make a suitable reference with regard to other persons if and when they lay their claim to any the designations as mentioned in the previous award, dated 19 May 1959, or when any dispute arises with regard to the implementation of the previous award. In view of the divided success of the parties, I make no order as to costs.