
(1997) 01 P&H CK 0168
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3640 of 1981

P.R.T.C. Workers Union (Regd.)

APPELLANT

Vs

Pepsu Road Transport Corporation and Others

RESPONDENT

Date of Decision : 31-01-1997

Acts Referred:

Industrial Employment (Standing Orders) Act, 1946 — Section 15(1)

Citation : (1997) 2 LLJ 899 : (1997) 116 PLR 517

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : Sarjit Singh, for the Appellant; Arun Nehra, Munish Bhardwaj and Jagdish Marwaha, for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—The only point that arises in this writ petition is whether the certification of the Standing Orders fixing the age of superannuation for the workmen of Pepsu Road Transport Corporation is valid.

2. Standing Orders were framed by the management fixing the age of superannuation at fifty eight years for those who were not class-IV and sixty years of age for class IV employees of the Corporation. In this writ petition, it is contended on behalf of the petitioner-Union that Schedule to the Industrial Employment (Standing Orders) Act, 1946, does not provide for fixing the age of superannuation for the workmen and, therefore, it cannot be made the subject matter of the Standing Orders. Therefore, the certification of the Standing Orders by the Certifying Officer is bad under law. It is on the other hand contended by the learned counsel for respondent No. 1 Corporation that in exercise of the powers conferred u/s 15(1) of the Act, the Government issued the Model Standing Orders, which is to the following effect:-

"Every workman on reaching the age of superannuation as mutually agreed to between the management and a workman or workmen of the establishment shall

retire from service".

Therefore, it is contended by the learned counsel that if it was agreed mutually between the management and the workmen that the age of superannuation is fifty eight years in respect of the employees other than class-IV employees and sixty years in regard to class-IV employees, then it is binding on the management and the workmen. Learned counsel for respondent No. 1 argued that the authorised representative of the Union specifically admitted before the Tribunal that the Standing Orders as contained in Clause 17(i) and (ii) shall be taken as an agreement between the parties and, therefore, it comes within the Model Standing Orders of order XXXIX and, therefore, the fixation of age: of superannuation in the Standing Orders is valid and accordingly the certification of the Standing Orders cannot be said to be bad. My attention was drawn to the admission made by the authorised representative of the Union before the Tribunal which is in the following terms :-

"Confronted with this situation, Baba Kartar Singh made statement on December 22, 1980; on behalf of the workmen that they (the workmen) had accepted the provision regarding age of retirement provided in clauses 1 and 2 of Regulation 17 and added that the same could be retained as mutually; agreed upon between the workmen and the Corporation. Shri P.S. Sandhu, too made statement on that date saying that the aforesaid clauses of Regulation 17 wherein provision had been made for the age of superannuation should be retained as mutually agreed upon between the workmen and the Corporation."

Therefore, the aforesaid statements clearly bring the provisions made under Clauses (i) and (ii) of Regulation 17 in regard to the age of superannuation within the ambit of Model Standing Orders.

3. Learned counsel for the petitioner next contended that the statement made by the authorised representative of the Union cannot be taken as an agreement between the workmen and the management and, therefore, it will not come within the purview of Model Standing Orders and the same cannot form the basis for the certification of the Standing Orders by the Certifying Officer. I am unable to agree with this contention of the learned counsel for the petitioner. The Model Standing Orders clearly state that every workman on reaching the age of superannuation as mutually agreed to between the management and the workmen of the establishment shall retire from service. Thus Model Standing Orders clearly show that the agreement may be between the individual workman and the management or between the workmen and the management. It does not say that there should be any form of agreement between the workmen of the Union representing the workmen and the management. Even a single workman can agree with the age of superannuation fixed by the management. When the authorised representative stated before the Tribunal that the workman had accepted the age of retirement as provided in Clauses (i) and (ii) of Regulation 17 it means that even prior to December 22, 1980 the workmen accepted and agreed to the fixation of age of superannuation. In such a case, the Standing

Orders as certified by the Certifying Officer will come within the purview of Modern Standing Orders which were made in exercise of the powers of the State Government u/s 15(1) of the Act. When the workmen agreed for fixation of age of superannuation they cannot now say that the certification is bad. In this view of the matter, I do not find any ground warranting interference with the order of the Tribunal.

4. The Writ Petition, therefore, fails and is accordingly dismissed.