

(1949) 03 FED CK 0001

In the Federal Court

Roberts McLean and Co. Ltd.

APPELLANT

Vs

A.T. Das Gupta and Ors.

RESPONDENT

Date of Decision : 30-03-1949

Acts Referred:

Citation : AIR 1949 FC 151

Hon'ble Judges : Justice Hari Lal Kania, Justice Fazl Ali, Justice Patanjali Sastri, Justice Mukherjea, Justice Mehar Chand Mahajan

Bench : Full Bench

Judgement

Kania, C.J.—This is an appeal from a judgment of the High Court of Judicature at Fort William in Bengal. The material facts are these:

2. The appellant (petitioner) is a company incorporated under the Indian Companies Act and carries on business, amongst other places, at No.

101 Netaji Subash Road, Calcutta, within the original civil jurisdiction of the High Court at Calcutta. By an order of the Government of West

Bengal dated 15th May 1947, Mr. Waight was appointed under the Industrial Disputes Act, 1947, the Tribunal for adjudication of a dispute

between the petitioner and the Roberts McLean Employees Union, having its office in Calcutta. Notices of proceeding with the adjudication were

issued in due course. By an order of the Government of West Bengal dated 1st September 1947, the order of 15th May 1947 was amended so as

to make the reference to Mr. A.T. Das Gupta. The said Tribunal proceeded with the matter and Mr. A.T. Das Gupta made his award on the 10th

January 1948. On or about 22nd January 1948, Mr. S.K. Chatterjee respondent 2, to the petition, by an order made in the name of the

Government of West Bengal, ordered that the said award shall bind the petitioner and the Union and shall remain in force for a period of one year

with effect from the said date. According to the direction of the said Mr. Chatterjee, a copy of the said order was published in the Calcutta

Government Gazette. The said award, inter alia, directed the appellant to reinstate their discharged employees with effect from 17th February

1947, on which date the petitioner had discharged them after giving them one month's pay in lieu of notice. The award further directed that two

persons named therein be paid, as compensation, their basic salary and dearness allowance from date of their discharge to the end of September

1947. There were other directions about reinstatement of certain persona and payment to others. The petitioner contended that the award was

made without jurisdiction and filed a petition in the High Court at Calcutta praying that Mr. Chatterjee be directed to forbear from giving effect to

the award and for writ of prohibition against Mr. Chatterjee from acting under the said award and a writ of certiorari for bringing up the records

and proceedings before Mr, Das Gupta for quashing the same. There were prayers for an injunction against Mr. Chatterjee proceeding with the

same award. The matter came for hearing before Sir Trevor, Harries C.J. and Chatterjee J. who, after dealing with the points urged before them,

dismissed the same. From that judgment an appeal has been preferred and heard by this Court. Before us only two questions were urged. One

was is respect of the jurisdiction of the Tribunal to order reinstatement. The other was that the award could not be given a retrospective effect so

as to be in operation for a period of more than one year.

3. Our judgment delivered today in the matter of the Western India Automobile Association case A.I.R. (36) 1949 P.C. 111 covers the first

question about reinstatement. For the reasons mentioned in that judgment the appellant's contentions on this point fail. The contention on the

second point is based on a misreading of Sections 15 and 19, Industrial Disputes Act. It confuses the question of the jurisdiction of the Tribunal

with the power of the Government to make the award operative for a period of one year. The scheme of the Act clearly is that the Tribunal has to

determine the dispute referred to it and therefore has jurisdiction to determine and make the award upto the date it passes its order. The award so

made will acquire a binding effect on the order of the Government made under Section 15. The power to make the award operative for a period

not exceeding one year thereafter which is given to the Government under Section 19(3), Industrial Disputes Act, is an independent power and

such extension does not, in any way, affect the jurisdiction or powers of the Tribunal. There is no justification for reading the provisions found in

Sections 10, 15 and 19, Industrial Disputes Act as providing one maximum period of 12 months. The maximum period of one year mentioned in

Section 19(3) starts from the date of the award and does not cover the period antecedent to the award. The result is that the two contentions

urged in this appeal fail and the appeal is dismissed. The appellants to pay the costs of respondent 2.