

(1949) 03 BOM CK 0044
In the Bombay High Court
Case No : Appeal No. 19 of 1949

Roberts Mclean and Co. Ltd.

APPELLANT

Vs

A.T. Das Gupta

RESPONDENT

Date of Decision : 30-03-1949

Acts Referred:

Industrial Disputes Act, 1947 — Section 15, 19

Citation : (1950) 52 BOMLR 179 : (1942) 55 LW 1160

Hon'ble Judges : Patanjali Sastri, J; Mukherjea, J; Mahajan, J; Harilal Kania, J; Fazl Ali, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Harilal Kania, Kt., 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 Subhas Road, Calcutta, within the Original Civil Jurisdiction of the High Court at Calcutta. By an order of the Government of West Bengal, dated May 15, 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 September 1, 1947, the order of May 15, 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 January 10, 1948. On or about January 22, 1948, Mr. S.K. Chatterjee, respondent No. 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 February 17, 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 re-instatement of certain persons 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 a 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 Mr. Justice Chatterjee, who, after dealing with the points urged before them, dismissed it. From that judgment an appeal has been preferred and heard by this Court. Before us only two questions were urged. One was in respect of the jurisdiction of the Tribunal to order re-instatement. 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 to-day in the matter of the Western India Automobile Association case (1949) 51 Bom L.R. 804 covers the first question about re-instatement. 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 of the 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 u/s 15. The power to make the award operative for a period not exceeding one year thereafter which is given to the Government u/s 19(3) of the 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 of the Industrial Disputes Act as providing one maximum period of twelve 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 No. 2.