

(1957) 02 P&H CK 0019
In the Punjab And Haryana At Chandigarh

Shambu Nath and Sons Ltd.

APPELLANT

Vs

Additional Industrial Tribunal and Another

RESPONDENT

Date of Decision : 11-02-1957

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 11, 21
Penal Code, 1860 (IPC) — Section 193, 228

Citation : (1957) 2 LLJ 287

Hon'ble Judges : Bishan Narayan, J

Bench : Single Bench

Judgement

Bishan Narayan, J.—By notification No. F.I. (58)/56 E.J. & L., dated 13 March 1956, the Chief Commissioner, Delhi, referred for adjudication to the Additional Industrial Tribunal, Delhi, consisting of Sri Rameshwar Dayal, under the Industrial Disputes Act, 1947, certain disputes between the management and workers of Shambu Nath & Sons, Ltd., of Shahdara, Delhi. The dispute, inter alia, related to payment of bonus for the years 1952-53 and 1953-54 and the present petition is limited to this dispute and my order is also confined to this dispute.

2. In due course the parties filed their statements before the industrial tribunal. In their statement of claims the workers sought per-v mission to be allowed to file their claim after the management had filed their statement and had made available the relevant balance sheet, and other information regarding the finance and accounts of the company. The management on 5 June 1956 replied, inter alia, that the workmen had claimed bonus too late as the accounts had long been closed. The management also denied its liability to pay bonus in view of the prior and necessary charges which were detailed in the statement of claims. The workmen thereupon filed a rejoinder on 9 August 1956, complaining¹ that the reply of the management was incomplete and did not give the required information and requested the tribunal to direct the management to produce the account books and balance sheets relating to years 1952-53 and 1953-54. The management filed audited balance sheets and profit and loss accounts for these

years and requested that this information may be kept confidential as laid down in Section 21 of the Act. On 1 September 1956, the tribunal passed two orders. By one order it directed the management to allow inspection of books like ledger, cash book, vouchers, etc., that is, all those books which related to financial statements for the two years, and by the other order directed the management to produce the financial statements for the year 1954-55.

3. The management has filed this petition to get these two orders set aside by issue of a writ of certiorari under Article 226 of the Constitution. This petition is contested by the tribunal as well as by the workmen.

4. The learned Counsel for the petitioners has contended that the tribunal has no jurisdiction to order inspection of these account books, etc., without complying" with the relevant provisions of the CPC and particularly without complying with the provisions of Order XI, Rule 18(2), of the Code of Civil Procedure. It was further argued that in any case the financial affairs of the company relating to the year 1954-55 had nothing to do with the present dispute and the tribunal ought not to have ordered the production of books relating to this financial year.

5. Section 11(1) of the Industrial Disputes Act, 1947, as amended in 1956 runs:

11(1) Subject to any rules that maybe made in this behalf, an arbitrator, a board, court, labour court, tribunal or national tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.

and Section 11(3) reads:

11(3) Every board, court, labour court, tribunal and national tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit, in respect of the following matters, namely:

- (a) enforcing¹ the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses;
- (d) in respect of such other matters as may be prescribed;

and every inquiry or investigation by a board, court, labour court, tribunal or national tribunal, shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (XLV of 1860).

6. Rules have been framed under this Act, and Rule 21 runs as follows:

21. In addition to the powers conferred by Sub-section (3) of Section 11 of the Act, boards courts and tribunals shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:

- (a) discovery and inspection;

(b) granting of adjournment;

(c) reception of evidence taken on affidavit;

and the board, court or tribunal may summon and examine suo motu any person whose evidence appears to it to be material and shall be deemed to be a civil court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898.

7. The learned Counsel for the petitioners has urged that u/s 11(3)(b) read with Rule 21 the tribunal can order inspection only in accordance with Order XI, Rule 18, Civil Procedure Code, while it is urged on behalf of the tribunal that it is open to it u/s 11(1) to decide its own procedure as it thinks fit and, therefore, it need not comply with the provisions of Order XI, Rule 18, Civil Procedure Code.

8. Now, from reading Section 11(3) of the Act together with Rule 21 framed thereunder it is clear that in matters of discovery, production and inspection the tribunal has the same powers which civil courts have under the Civil Procedure Code. In the present case we are only concerned with the production and inspection of documents of the company. The provisions relating to inspection of documents are given in Order XI, Rule 15 and Rule 18. The management has no objection to the inspection of the already produced audited balance sheets by the workmen. Its objection is limited to inspection of account books, i.e., ledgers, stock registers, vouchers, etc. Admittedly, these documents have not been referred to by the management in their statement of claims and pleadings and therefore Order XI, Rule 15, and Order XI, Rule 18(1), have no application. It is also admitted by the parties before me that the provisions of Order XI, Rule 18(2), have not been complied with in the present case as no affidavit has been filed for this purpose on behalf of the workmen, nor has the tribunal given a finding that the inspection of these documents is necessary for effective disposal of the case. The contention of the learned Counsel for the respondents, as I have stated above, is that in these proceedings the tribunal need not conform to any provisions of the Code of Civil Procedure, and for this purpose reliance is placed on Section 11(1) of the Act. That sub-section, however, is subject to any rules that may be made in this behalf and Rule 21 is that rule. As the powers of civil courts are limited in these matters by the provisions laid down in Order XI, Rule 18, to my mind the tribunal's powers are also similarly limited. The general terms in which Section 11(1) is couched are limited in the matters enumerated in Section 11(3) and Rule 21 to the provisions of the Civil Procedure Code. I am, therefore, clear that the tribunal must comply with the provisions of Order XI, Rule 18, before ordering inspection of documents of the opposite side, and the present orders must be set aside in view of the fact that these orders have been passed in contravention of the provisions of the Civil Procedure Code.

9. It was then urged on behalf of the workmen that it is in fact necessary that the workmen should examine these books of the company, so that they may be able to substantiate their case before the tribunal. I am, however, unable to see

how a roving and fishing inquiry into all the account books and other books of the company for the years 1952-53, 1953-54 and 1954-55 can help the workmen in claiming bonus for the years 1952-53 and 1953-54, and I do not propose to decide this matter as the data available to me is wholly insufficient for the purpose. I have no doubt that the tribunal will decide these matters afresh after complying with the provisions of the Civil Procedure Code, and at that time it will determine the difficulties of workmen that they have to face in proving the financial position of the company.

10. For all these reasons I accept this petition and aside the orders of the tribunal dated 1 September 1952, allowing inspection of 1952-53 and 1953-54 documents to the workmen and the other order of the same date directing the company to produce all the account books and documents relating to the year 1954-55.

11. There will be no orders as to costs.