
(1966) 08 AHC CK 0016
In the Allahabad High Court

Sree Sitaram Sugar Company, Ltd.

APPELLANT

Vs

Labour Court and Others

RESPONDENT

Date of Decision : 02-08-1966

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6G

Citation : (1967) 1 LLJ 362

Hon'ble Judges : S.C. Manchanda, J; Jagdish Sahai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Jagdish Sahai, J.—This is a special appeal directed against the judgment of Bhagwan Das Gupta, J., dated 30 October 1964 dismissing Writ Petition No. 1526 of 1961 filed by the appellant, Sree Sitaram Sugar Company, Ltd. (hereinafter referred to as the appellant).

2. By means of the writ petition aforesaid, the award given by the labour court, Gorakhpur, was sought to be quashed on the ground that the State Government on 28 February 1961 had revoked the notification dated 26 October 1960 purporting to act under the provisions of Section 6G of the Uttar Pradesh Industrial Disputes Act (hereinafter referred to as the Act). That provision so far as relevant for our purposes reads:

6G. Power to transfer certain proceedings.—(1) The State Government may, by order in writing and for reasons to be stated therein, withdraw any proceedings under the Act, pending before a labour court or tribunal or transfer a proceeding from one labour court or tribunal to " another labour court or tribunal, as the case may be, for the disposal of the proceeding and the labour court or tribunal to which the proceeding is so transferred may, subject to any special directions in the order of transfer, proceed either, de novo or from the stage at which it was so transferred.

3. The dispute referred to the tribunal was as follows:

Whether the employers have retired their workmen named in the annexure with effect from 2 May 1959, legally and/or justifiable ? If not, to what relief are the workmen concerned entitled ?

4. The labour court gave its award on 26 February 1961 and sent it to the State Government for notification. The notification issued by the State Government u/s 6G is dated 27 February 1961, i.e., after the award had been made and transmitted to the State Government for notification. The sole question for consideration before the learned single Judge was:

Whether in view of the notification of the State Government dated 28 February 1961 u/s 6G of the Act the award made by the labour court became void, unenforceable and ineffective ?

5. The learned single Judge went into what he described as the legislative history of some of these provisions.

6. After doing so he concluded as follows:

It would thus appear that as a combined result of the amendment by the amending Acts 1 and 13 of 1957, the power given to the State Government refraining from enforcing an award, was narrowed down by confining it only to those cases in which the State Government was of the opinion that it was inexpedient to enforce the same on public grounds affecting national economy or social justice.

We are not resting our decision on the legislative history and would like to confine ourselves to the relevant provisions contained in the Act.

7. The submission of the appellant that it is possible to exercise power of withdrawing a reference after an award has been given is based on the provisions of Section 6D of the Act. That provision reads:

Proceedings before a labour court or tribunal shall be deemed to have commenced on the date of reference of a dispute to adjudication, and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable u/s 6A.

8. Sri Kacker contends that the clear effect of the provisions of Section 6D of the Act is that the proceedings before the labour court or tribunal would be deemed to continue until the date on which the award becomes enforceable under 3. 6A of the Act, i.e., on the expiry of thirty days from the date of its publication u/s 6.

9. We have already reproduced the relevant part of Section 6G of this Act earlier in this judgment. There is no doubt that the State Government has the power to withdraw any proceeding pending before the labour court or tribunal. The question for consideration is, whether any proceeding was pending before the labour court on 28 February 1961, i.e., two days after the labour court had given its award and transmitted it to the Government for notification, A proceeding can only be withdrawn if it is capable of being withdrawn and cannot be withdrawn if

an award has already been made and transmitted to the Government for notification. In such a case the labour court has already adjudicated upon the matter.

10. It is true that Section 6D provides that proceedings before the labour court shall be deemed to have concluded on the date on which the award becomes enforceable. But, while Interpreting that provision, and while applying it to the facts of the present case, we must keep in mind the language of Section 6A of the Act. That provision, so far as is relevant for our purposes reads:

An award (Including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication u/s 6:

Provided that if the State Government is of the opinion that it will be inexpedient on public grounds affecting national or State economy or social Justice, to give effect to the whole or any part of the award State Government may, by notification in the official gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

Provided further that an arbitration award shall not become enforceable where the State Government, after such enquiry as it considers necessary, is satisfied that the same has been given or obtained through collusion, fraud or misrepresentation.

11. Once the award has been published u/s 6 of the Act it automatically becomes enforceable by virtue of the provisions of Section 6A of the Act except when it is covered by the two provisos reproduced earlier.

12. Section 6 so far as relevant for our purposes reads:

Where an Industrial dispute has been referred to a labour court or tribunal for adjudication, it shall hold proceedings expeditiously and shall as soon as it is practicable on the conclusion thereof submit its award to the State Government ... (3). Subject to the provisions of Sub-section (4) every arbitration award and the award of a labour court or tribunal shall, within a period of thirty days from the date of its receipt by the State Government, be published in such manner as the State Government thinks fit.

It cannot be disputed that the provisions of Section 6 are mandatory. It is the imperative requirement of that provision that the State Government shall " within a period of thirty days from the date of the receipt of the award publish the same." It is clear from the language of Section 6 of the Act that the Government has no discretion in the matter and is bound to publish the award within thirty days of its receipt. In other words, Section 6(3) of the Act casts upon the Government a statutory duty to publish the award within a period of thirty days from its receipt. The provisions of Section 6G confers on the State Government a discretionary power. The Government may or may not withdraw a proceeding. Reading Sections 6, 6A, 6B and 6G together harmoniously the only possible conclusion is that the discretionary power given u/s 6G of the Act cannot be

exercised to destroy the mandatory and Imperative requirement of Section 6(3) of the Act. In other words the Government cannot refuse to perform its statutory duty which the legislature In all solemnity has enjoined upon it to perform by exercising its discretionary power u/s 6G of the Act. We are, therefore, of the opinion that in the present case it was not open to the State Government to withdraw the proceedings after the award had been submitted to the Government for being published. It is true that Section 6D provides that a proceeding before a tribunal shall be deemed to have been concluded only when the award becomes enforceable. The provision has been so widely worded only to enable the labour court or tribunal to correct any clerical or arithmetical errors or to make some corrections in the award. But that does not give the State Government the power to nullify an award solemnly made by a labour court and submitted to the Government for publication in the name of withdrawing the proceeding.

13. We are, therefore, satisfied that there are no merits in this special appeal. It is accordingly dismissed with costs.