

(1969) 04 AHC CK 0006
In the Allahabad High Court

Sri Ram and Others

APPELLANT

Vs

First Labour Court and Others

RESPONDENT

Date of Decision : 29-04-1969

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C

Citation : (1970) 1 LLJ 392

Hon'ble Judges : W. Broome, J;G.C. Mathur, J

Bench : Division Bench

Judgement

W. Broome, J.—The point that arises for decision in this writ petition, which has been referred to us at the instance of a learned stogie Judge is whether a labour court can dismiss an application u/s 6F of the Uttar Pradesh Industrial Disputes Act on the ground of its not having been presented within a reasonable time.

2. The petition is directed against an order of the first labour court, Kanpur, dated 29 September 1963, dismissing an application of a workman named Sri Ram u/s 6F challenging his dismissal with effect from 8 June 1961 by his employer (the Muir Mills Company, Ltd., Kanpur). The petitioner's contention is that the employer had contravened the provisions of Section 6E (2) of the Uttar Pradesh Industrial Disputes Act, because it had not applies for permission to dismiss him, despite the fact that a number of industrial disputes were already pending between the concern and its workmen, in which the petitioner was directly interested. At first the State Government was asked to take action, but on 2 February 1962 It refused to make a reference u/s 4K of the Act. Thereafter, on 4 September 1962, Sri Ram himself filed an application u/s 6F; but the labour court, finding that the delay of six or seven months that had elapsed between the refusal of the State Government to make a reference and the filing of this application had not been accounted for, held that Sri Ram was guilty of laches and was, therefore, not entitled to any relief. The application u/s 6F was accordingly dismissed.

3. In Amrita Bazar Patrika (Private), Ltd. v. Uttar Pradesh State Industrial

Tribunal and Ors. (1964) II L.L.J. 53, D.D. Seth, J., has expressed the view that there must be a reasonable period for complaints to be filed u/s 6F of the Act.

and that the tribunal dealing with such a complaint has the power to refuse to entertain it, if it is too belated. But having carefully considered the wording of Section 6F, we find ourselves with due respect unable to agree with this view. The section runs thus:

Where an employer contravenes the provisions of Section 6F during the pendency of proceedings before a labour court or tribunal, any workman aggrieved by such. contravention may make a complaint in writing in the prescribed manner, to the labour court or tribunal, as the case may be, and on receipt of such complaint that labour court or tribunal as the case may be shall adjudicate upon complaint as if it were a dispute referred to or pending before it, in accordance with this Act, and shall subject its award to the State Government and the provisions of this Act shall apply accordingly.

It is to be noted that this section lays down that whenever a complaint is made thereunder, the labour court or tribunal receiving such complaint

shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with this Act.

In the first place, this implies that it is obligatory on the court or tribunal to give a decision on the merits of the complaint, provided, of course, it falls within the ambit of the section; there is nothing in the section to indicate that the court or tribunal has been given the power to throw out the complaint and to refrain from adjudicating on it, if it has been filed late. Secondly the words used in the section show that a complaint u/s 6F has been equated with a reference u/s 4K of the Act, for the complaint has to be adjudicated on by the court or tribunal

as if it were a dispute referred to or pending before it;

and if the court or tribunal has no power to dismiss a reference u/s 4K on the ground that it is belated there, would seem to be no justification for imputing to the court or tribunal the power to dismiss a complaint u/s 6F on such grounds. It has never been suggested that a reference u/s 4K can be thrown out on the score of delay: similarly, therefore, a complaint u/s 6F cannot be disposed of in this manner.

4. In *Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others*, , the Supreme Court drew a distinction between a claim based on social Justice (such as claim for bonus) and a claim made u/s 33C of the Industrial Disputes Act, 1947 (for recovery of money or the money value of any benefit capable of being computed in terms of money, due from an employer) and remarked that:

if it appears that a claim for bonus was made after long lapse of time, industrial adjudication may refuse to entertain the claim, or Government may refuse to make reference in that behalf. But these considerations would be irrelevant when

claims are made u/s 33C(2) where these claims are, as in the present, case, based on an award and are intended merely to execute the award. In such a case, limitation cannot be introduced by industrial adjudication on academic ground of social justice. It can be introduced, if at all, by the legislature.

A dispute raised u/s 6F of the Uttar Pradesh Industrial Dispute Act is clearly not to be placed on a par with a claim for bonus, which, as pointed out by the Supreme Court,

is entertained on grounds of social justice and is not based on any statutory provision.

It would appear therefore that, in conformity with the view taken by the Supreme Court in the above mentioned case, a claim u/s 6F is not subject to any period of limitation.

5. The result is that both on a consideration of the actual wording of Section 6F of the Uttar Pradesh Industrial Disputes Act and also in view of the pronouncement of the Supreme Court in *Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others*, we are satisfied that a complaint u/s 6F cannot be dismissed merely on the ground of its not having been presented within a reasonable time. This writ petition is accordingly allowed with costs, the impugned order of the labour court, dated 29 September 1963 is quashed and the labour court is directed to readmit the petitioner's application u/s 6F and to dispose of it on the merits.