

(2002) 03 BOM CK 0026
In the Bombay High Court
Case No : O.O.C.J. W.P. No. 359 of 2002

Standard Chartered Grindlays Bank Ltd.	APPELLANT
Vs	
Grindlays Bank Employees Union and Another	RESPONDENT

Date of Decision : 04-03-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(4)

Citation : (2002) 2 LLJ 455

Hon'ble Judges : R.J. Kochar, J

Bench : Single Bench

Advocate : J.B. Cama, instructed by RMG Legal Associates, for the Appellant;
C.U. Singh and S. Dighe, for the Respondent

Final Decision : Dismissed

Judgement

R.J. Kochar, J.—Rule. By consent returnable forthwith. Respondent waives service.

2. The petitioner bank is aggrieved by the order passed by the Presiding Officer, Central Government Industrial Tribunal below Exh. 19 and 29 in reference No.CGIT-2/49 of 2001. The industrial dispute raised and espoused by the respondent Union is pending before the Tribunal for adjudication. The aforesaid industrial dispute was referred for adjudication by the Central Government by its order of reference dated April 24, 2001. The schedule to the order of reference as subsequently amended reads as under:

"Whether the action of the Management of Standard Chartered Grindlays Bank to transfer the Award Staff to R.M.C. located at Byculla in Mumbai is justified? If not what relief are the workmen entitled to?"

It is clarified that in the original order of reference inadvertently singular term workman was stated. Since the said industrial dispute affected more than one workman, the order of reference came to be amended by referring to the plural term workmen therein.

3. Had the Tribunal passed an order giving proper reasons for allowing the amendment, it would have been better for this Court to appreciate the dispute between the parties. Instead, a very cryptic order has been passed by the Tribunal.

4. I have heard both the learned counsel for the parties. According to Shri Cama, the learned counsel for the petitioner bank, when the industrial dispute was raised, espoused and referred, only 33 workmen were under transfer. According to him, the respondent union had challenged the transfer orders of the 33 workmen only. The learned counsel submits that the Tribunal is a creation of the Industrial Disputes Act, 1947 and has to adjudicate only the disputes which are referred to it for adjudication under the provisions of the said Act. Shri Cama further submits that the Tribunal by allowing the subsequent amendment by including the subsequent orders of transfer of 47 and 10 workmen in the reference, has unlawfully enlarged the scope of reference and, therefore, the Tribunal has crossed its limits of jurisdiction, i.e. to decide the industrial dispute which is referred to it. According to Shri Cama, the order of reference pertains to only 33 workmen and the subsequent transfers cannot be included in the present reference. Shri Cama has also pointed out that in the subsequent amendment application, new plea is taken and of cause of action is pleaded. Shri Cama has pointed out that the new plea of lock-out has been included in the amendment application.

5. Shri C.U. Singh, the learned counsel appearing for the respondent No. 1 has submitted that it was not that the original demand or the industrial dispute was confined only to any particular number of workmen but the challenge was to the action of the petitioner bank to transfer the award staff to Resource Management Centre (RMC). Shri Singh has pointed out that the axe had fallen on 33 workmen and, therefore, their names were referred in the statement of justification. In fact, what the union was challenging is the policy or the action of the petitioner bank to transfer the award staff to the RMC. After the order of reference two subsequent events had taken place i. e. a batch of 47 workmen came to be transferred in the same way as the earlier batch of 33 workmen. The next subsequent event had taken place when 10 workmen were again transferred to RMC. The union had moved an amendment before the Tribunal to include in their statement of claim by addition of 47 and 10 workmen who were transferred after the order of reference. Shri Singh has pointed out that there is no change in the cause of action or the original demand. It is only to facilitate the Tribunal to pass specific order in respect of the employees who were subjected to transfer, their names were given to the Tribunal. The dispute or the subject matter of the transfer remains the same, according to the learned counsel. Shri Singh has also pointed out that u/s 10(4) of the Industrial Disputes Act, jurisdiction of the Tribunal is even to decide all incidental questions that arose in a dispute finally and completely.

6. The original order of reference is not confined to only 33 workmen who were

transferred when the demand was submitted and when the industrial dispute was raised. It is crystal clear from the schedule that the union was aggrieved by the continuing process of transfer that it had apprehended would take place in future also. From the subsequent event, it is proved that the management has transferred in all three batches of workmen to their newly formed department. From the order of reference, it is further clear that the industrial dispute was not confined to any number of workmen but the Union had challenged as a whole the action of the petitioner management to transfer the award staff to RMC. The union has perhaps anticipated further more transfers and the union appears to have proved right in view of the next two batches of workmen who were transferred. I, therefore, do not find any illegality or infirmity in the IA final order of the Tribunal to allow the said amendment. By way of amendment what is done by the union is only to point out to the Tribunal the names of the workmen who were subjected to transfer. By doing so, the union has in no way changed the cause of action.

7. I am not able to agree with the submissions of the learned counsel for the petitioner that by adding the names, the union has raised a fresh industrial dispute for which it must approach the Central Government for new or fresh adjudication of the dispute. The union has challenged the policy or the action of the management to transfer the award staff to RMC. The Tribunal shall adjudicate upon the said issue. If such an action would be found justified, in that case, the union would succeed and if it fails in that case, the orders in respect of the number of workmen whose names are given by the union to the Tribunal would stand cancelled. It is not that the scope of reference is widened or expanded. The points which Mr. Cama submits of the new plea or the fresh cause of action in fact do not change the cause of action. It is only the ground which is being added by the union to justify its challenge to the action of the management to transfer the award staff to the RMC.

8. Mr. Cama, the learned counsel for the petitioner bank has pointed out that the learned Member of the Tribunal has, by his order dated February 13, 2002, framed certain issues. I am not concerned with the said order of the Tribunal as it is not impugned herein. It is needless to mention that the petitioner bank would be at liberty to challenge the said order in accordance with law.

9. In the result, the petition fails and the same is dismissed with no orders as to costs. Rule is discharged.