
(1994) 06 BOM CK 0009

In the Bombay High Court

Case No : Appeal No. 390 of 1994, in Writ Petition No. 1287 of 1994

Tata Press Ltd

APPELLANT

Vs

Tata Press Employees" Union and others

RESPONDENT

Date of Decision : 27-06-1994

Acts Referred:

Industrial Disputes Act, 1947 — Section 18(1), 2

Citation : (1994) 06 BOM CK 0009

Hon'ble Judges : N.D. Vyas, J;M.L. Pendse, J

Bench : Division Bench

Judgement

Pendse, J.—Appeal admitted.

Mr. Ganguli waives service on behalf of respondent No. 1.

Names of respondent Nos. 2 and 3 deleted on application of Mr. Rele, Counsel for the appellant.

By consent appeal taken on board and called out for hearing.

Heard Counsel.

2. The dispute in this appeal lies in a very narrow compass. The appellant-Company is running factories at Prabhadevi and Nerul in New Bombay. Tata Press Kamgar Sanghatana represents majority of the employees, while the respondent claims to represent some employees. A memorandum of settlement dated January 31, 1992 was reached between the Tata Press Kamgar Sanghatana and the appellant-Company in accordance with Section 18(1) read with Section 2(p) of the Industrial Disputes Act. The settlement was arrived at after protracted negotiations were held. The settlement provides for several benefits to the employees but also demands that the employees would give the requisite output. The settlement provided that those employees who are desirous of receiving the benefits of the settlement shall give an undertaking as per the annexure attached to the settlement. The undertaking was to be signed within five days of

signing the settlement. The undertaking specifically recites that the employee accepts the settlement without any protest.

3. The undertaking was signed by all the employees of the Company except the 15 workers who claim to be the members of the respondent-Union. Long after the expiry of the period of signing the settlement. Compliant No. 1529 of 1991 under Items 1(c), 2 and 3 of Schedule II and Items 5, 7, 9 and 10 of Schedule IV of the said Act was filed before the Industrial Court, Bombay. The respondent claims that the settlement is not binding. The reliefs sought were (a) declaration that the Company has engaged in unfair labour practice, (b) direction that the Company should desist from engaging in such practice and (c) quashing and setting aside acceptance letter secured by the Company from the employees. The interim relief was sought directing the Company to negotiate with the respondent in respect of pending charter of demands and to restrain the company from securing signature on the undertaking. After filing of the compliant, the respondent sought interim relief and during the arguments it was suggested that the 15 workmen will sign the undertaking under protest. The Industrial Court by an order dated April 21, 1994 directed the Company to pay the arrears as per the settlement to the 15 workmen on their signing the undertaking under protest.

The interim order passed by the Industrial Court was challenged by the Company by filing Writ Petition No. 1287 of 1994 under Article 226 of the Constitution before the learned single Judge. The learned single Judge by the impugned order dated June 6, 1994 summarily dismissed the petition. The learned Judge declined to interfere with the order and that decision is under challenge.

4. Mr. Rele, learned counsel appearing on behalf of the appellant submitted that out of the 15 employees, 8 are already dismissed from service, while one has resigned. Mr. Rele submitted that the employees who are dismissed from service and one who resigned, cannot claim the benefit of the settlement as a matter of right. We find considerable merit in the submission of the learned Counsel. Mr. Rele also submitted that the remaining employees have no desire to accept the settlement but are keen to secure benefits thereunder. It was contended that the settlement does not merely confer benefits but creates obligation and the employees by claiming that the undertaking is signed under protest wish to convey that the obligation will not be carried out. Mr. Rele submitted, and in our judgment with considerable merit, that only 15 employees cannot dictate the terms when all the remaining employees have signed the settlement.

Mr. Ganguli, learned Counsel appearing for respondent urged that the benefit of settlement is available to all the employees. There cannot be debate about the correctness of the claim, but the employees cannot insist that they will sign the undertaking as provided by the settlement under protest and should get only benefits thereunder. We are unable to appreciate why such an interim order was called for in respect of a compliant where the employees are challenging the validity of the settlement itself. In our judgment, the grant of interim relief by

the Industrial Court was uncalled for and the learned Judge should not have confirmed that order.

5. Accordingly appeal is allowed and order dated April 21, 1994 passed by the Industrial Court, Bombay, below Exh. U-6 in Complaint No. 1529 of 1991 as well as order dated June 6, 1994 passed by the learned single Judge on Writ Petition No. 1287 of 1994 are set aside. The Industrial Court is directed to dispose of the compliant as expeditiously as possible.