

(1966) 11 MAD CK 0010
In the Madras High Court

Textile Employees' Association (by General Secretary)	APPELLANT
Vs	
Arbitrator [Ramaswami Gounder (K.)] and Others	RESPONDENT

Date of Decision : 24-11-1966

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 10A, 9A

Citation : (1968) 1 LLJ 349

Hon'ble Judges : P. Ramakrishnan, J

Bench : Single Bench

Judgement

P. Ramakrishnan, J.—The facts which have given rise to this writ petition can be summarized briefly.

2. The petitioner is the Textile Employees' Association, Tiruehi Road, Singanallur. On account of a dispute which arose between a specified

number of 88 workers employed in the Cambodia Mills in the categories of jobbers, maistrie, fitters and boilers on the one hand and the

management on the other, about the quantum of production bonus, the dispute was referred u/s 10a. of the Industrial Disputes Act, voluntarily to

an arbitrator Sri K. Ramaswami Gounder. retired High Court Judge and industrial tribunal, for adjudication. For regulating the payment of this

production bonus, it is common ground that there was an agreement between the management of the textile industry in Coimbatore and workers in

1949, which provided for the calculation of production bonus by multiplying the uniform rate of bonus payable to the actual spinners or piecera as

they were called (Ra. 2-7-0) by the different multiples 15,10,6,3, adjusted according to the nature of the supervisory job, involved, like

headjobber, dotting-jobber, side-jabber and assistant fitter. in 1957 this pattern

of calculation of production bonus was again modified by agreement between the management in the industry and the representative of the workers which enhanced the production bonus payable for the placers or spinners to a higher level starting with Rs. 3-1-0 for cotton spinners in the lowest range of counts to Rs. 4-1-0 and 8-2-0 for the higher counts giving up the uniform fiat rate adopted in 1949 scheme at Rs. 2-7-0. At the same time, however, the method of calculating the production bonus for supervisory job like those of the petitioners herein by multiplying the production bonus of placers or spinners by a specified series of multiples was abandoned and a uniform rate for the different supervisory jobs was fixed. Now in the case of Cambodia Mills, it appears that from 1957 to 1959 only the low counts of cotton used to be spun, but the piecers and spinners were given enhanced production bonus of Rs. 3-4-0 the lowest rate in the revised scales of bonus. But the then management (the predecessor of the present management) continued to multiply this Rs. 3-4-0 by the same multiples as those which prevailed in 1917 scheme for determining the production bonus for the supervisory posts. In 1959 for the first time the spinning of higher counts was commenced and thereafter also the same system was followed by the prior management. But when the present management who had purchased the mills in 1960 took over they found the failure of the previous management to adopt the new schemes of production bonus for the supervisory posts and their persisting in the old system led to considerable loss. Thereupon they issued a notice u/s 9A. to the workers proposing to adopt the 1957 system of calculating the production bonus. The workers resisted this claim and insisted upon their being paid the production bonus as was done heretofore. It is in the above circumstances that the dispute arose and was brought before the arbitrator for adjudication.

3. It would appear that the petitioners base their claim on a right which they had acquired by the fact that the previous management notwithstanding the change produced in the 1957 scheme continued to give them the benefit of calculation of the production bonus under the earlier 1947 scheme.

The petitioners also appear to have urged certain special difficulties of production in the Cambodia Mills, without specifying what those difficulties were. On the other hand, the management contended that the change over to

finer counts in 1950 had increased the bonus paid to plecera and spinners to very high figures, especially in the region of the higher counts. This made it very difficult to persist in awarding production bonus to supervisory posts on the basis of the old 1947 scheme and therefore they had to adopt the 1957 scheme instead. This was also the method followed by other mills in the area for the calculation of promotion bonus.

4. After the enquiry the arbitrator gave a finding that the workers had not established any basis of agreement between themselves and the previous management, for departing from the rule prescribed in the 1957 scheme, for calculation of production bonus. On the other hand, there was every reason to hold that it was due to an error that the previous management had been paying production bonus to the petitioners on the basis of the 1947 scheme, and without taking advantage of the change made in the 1957 scheme. Therefore the arbitrator held that the management was perfectly Justified in issuing the notice u/s 9A giving the petitioners production bonus on the basis of the 1957 scheme.

5. In this petition the petitioners have applied for quashing of the award of the arbitrator by a writ of certiorari under Article 226 of the

Constitution. The learned Counsel for the petitioner-association, submits the finding of the arbitrator that the payment of production bonus under

the 1947 scheme even after 1957 by the management was due to an error, was not the actual plea put forward by the management in their

counter-statement before the arbitrator, and that the arbitrator acted without jurisdiction in going beyond the actual counter-statement and finding

out a different reason for the higher payments made by the previous management. It appears to me that there is no legal objection for the arbitrator

in coming to a conclusion on the basis of the enquiry that followed the filing of the statement and the counter-statements, as to the exact

circumstances in which the higher production bonus had been paid for about three to four years by the previous management before the present

management took over. That such a payment was annual could be clearly Inferred from the fact that other mills in the area had paid only on the

1957 scheme of calculation but the adoption of the 1947 multiples to the 1957 bonus rates for spinners, Implied the payment of such higher

amounts in the case of higher counts to the supervisory posts. The management

had changed hands and the present respondent had no means of finding out why the higher payment had been made in the present concern above. It was for the workers to put forward a previous case supported by adequate evidence as to why in the present concern, a higher rate of production bonus had been paid to the supervisory employees notwithstanding the 1957 agreement. They did not put forward a case of agreement with the management and there was nothing to support their contention that the conditions of working in this mill were different or difficult or more onerous than in the case of other mills. It was in such circumstances that the arbitrator came to the conclusion that at least the payment of a higher bonus for about three or four years prior to 1960 by the previous management to the petitioners might have been due to an error and that the present management was fully justified in adopting the 1967 pattern of calculation of bonus after they took over the management. The decision of the arbitrator involves no error of jurisdiction or violation of any principle of natural justice the writ petition is dismissed. No order as to costs.