

(1951) 09 PAT CK 0004

In the Patna High Court

Case No : Misc. Judicial Case No. 119 of 1950

The Arrah Electric Supply Co. Ltd.

APPELLANT

Vs

Workmen of Arrah Electric Supply Co. Ltd. and Others

RESPONDENT

Date of Decision : 21-09-1951

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1), 2

Citation : AIR 1952 Patna 134

Hon'ble Judges : Sinha, J; Ramaswami, J

Bench : Division Bench

Advocate : Jaleshwar Pd. and J.N. Sahai, for the Appellant; Govt. Pleader, Sheonarayan Lal Nandkeolyar and Awadheshnandan Sahai, for the Respondent

Judgement

Ramaswami, J.—In this case the petitioner, The Arrah Electric Supply Co. Ltd., has obtained a rule calling upon the state of Bihar and other opposite party to show cause why a writ in the nature of certiorari should not be issued for quashing the award made by the Industrial Tribunal. Cause has been shown against the rule by the State of Bihar and other opposite parties to whom notice of the rule was directed to be given.

2. The material facts are not seriously controverted. On 1st of May 1949 the Arrah Electric Supply Company's Workers Union which will hereinafter be referred to as "Union" submitted a list of demands from the management of the Arrah Electric Supply Co. Ltd. for immediate compliance. As their demands were not fully met with the Union served upon the Company a notice on 4th of June 1949 to the effect that the workers would go on strike from 21st June 1949. Thereafter the Deputy Labour Commissioner informed the Union that the strike would be illegal whereupon the Union gave to the Company a second notice u/s 19(2) of the Industrial Disputes Act on 22nd of June 1949. After the expiry of two months from this date the Union submitted a list of demands on 23rd August 1949. Thereafter a settlement was arrived at between the Union and the Company and the memorandum of settlement was published by the Government

of Bihar on 18th October 1949. From the memorandum it is apparent that the demands relating to the revision of scale of pay, increment in dearness allowance and payment of bonus which were still pressed by the workers could not be settled between the parties. On 18th of October 1949 the Government of Bihar in exercise of the powers conferred by Section 10(1) of the Industrial Disputes Act made reference of the dispute to the Industrial Tribunal for adjudication. On 10th of February 1950 the Industrial Tribunal gave the award which was duly published in the Bihar Gazette. Thereafter the Union gave notice to the Company that unless the award was implemented the workers of the Company would, go on strike from 19th May 1950.

3. Being dissatisfied with the award of the Tribunal the Company has filed an application under Articles 226 and 227 of the Constitution of India.

4. The main argument addressed by Mr. Jaleshwar Prasad is that the award of the industrial Tribunal is wholly without jurisdiction since there was no "Industrial dispute" within the meaning of Section 2(k) of the Act. The contention of the learned counsel is founded upon the circumstance that in the memorandum of settlement dated 20th September 1949 there is a statement that the demands relating to revision of scale of pay, increment in dearness allowance and payment of bonus were still pressed by the workers out on which no settlement could be arrived at. As regards the other 9 demands the document states that there was settlement between the parties. Mr. Jaleshwar Prasad therefore contended that with respect to items 4, 5, 6 and 7 of annexure A to the Government Notification by which the Tribunal was constituted there was no industrial dispute and the Tribunal had no jurisdiction to decide these matters. The contention of the learned Counsel appears to be invalid. As regards item No. 5 with respect to the reinstatement of Sri P. K. Mitra the Tribunal itself has observed that there was no dispute in existence and no order would be passed with respect to the case of Sri P. K. Mitra. With respect to item No. 6 the Tribunal has interpreted the memorandum of settlement with reference to the award given by the labour Commissioner on 10th of May 1948. The Tribunal held that arrears of house rent allowance from March 1948 cannot be allowed to the emergency staff though it was clear from the memorandum of settlement that house rent allowance must be paid from October 1949 to members of the emergency staff. As regards item No. 7 of annexure A the Tribunal referred to the award of the labour Commissioner of 10th May 1948 to the effect that the company should provide free medical aid to the workers. In view of the fact that in practice the management had been supplying free medical aid to the members of the employer's family the Tribunal directed that the practice should be continued. Admittedly this question was not referred to or decided in the Labour Commissioner's award and the Tribunal had jurisdiction to consider and determine this question.

5. Mr. Jaleshwar Prasad stressed the argument that even as regards items 1, 2 and 3 of annexure A to the notification there was no dispute between the parties

and the reference made u/s 10(1) by the Government of Bihar was without jurisdiction and in consequence the award of the Tribunal was illegal, void and of no effect. It was contended by the learned Counsel that with respect to these three items there was an arbitration and the Labour Commissioner gave award on 10th May 1948 which was binding upon the parties. The argument of the learned counsel on this part of the case cannot be accepted since, in the first place, the award made by the Labour Commissioner on 10th May 1948 has not been printed in the paper book and there is no material from which it is possible to hold that the Labour Commissioner had previously decided the three matters which were referred to by the Government of Bihar to the Industrial Tribunal for being adjudicated. In the second place, the memorandum of settlement dated 20th of September 1949 clearly shows that the three items of annexure A to the notification had not been settled between the parties, that the workers still pressed those three demands but the Company had not acceded thereto. It is therefore apparent from this memorandum of settlement that in spite of the alleged award given by the Labour Commissioner in 1948 the demands with respect to revision of scale of pay, increment in dearness allowance and payment of bonus were not accepted by the Company though they were still pressed by the workers,

6. Upon the materials produced in this case it is manifest that there was industrial dispute with respect to all the items mentioned in annexure A at the time the Government of Bihar made reference to the Industrial Tribunal u/s 10(1) of the Industrial Disputes Act. It follows that the Tribunal had complete jurisdiction to decide the matters referred to it and the award made cannot be impeached on the ground of want of jurisdiction.

7. For these reasons the rule must be discharged and the application must be dismissed with costs to the contesting opposite party. Hearing fee three gold mohars to be paid to respondents 1 and 2 and three gold mohars to respondent No. 3, State of Bihar.

Sinha, J.

8. I agree.