
(2013) 05 SHI CK 0025
In the High Court Of Himachal Pradesh
Case No : LPA No. 311 of 2011

The Drang Salt Mine Labour Union

APPELLANT

Vs

M/s. Hindustan Salt Ltd.

RESPONDENT

Date of Decision : 27-05-2013

Acts Referred:

Industrial Disputes Act, 1947 — Section 19, 19(2)

Citation : (2013) 138 FLR 726 : (2013) 3 LLJ 695

Hon'ble Judges : A.M. Khanwilkar, C.J;R.B. Misra, J

Bench : Division Bench

Advocate : A.K. Gupta, for the Appellant; Surender Sharma, for the Respondent

Judgement

A.M. Khanwilkar, C.J.—Heard counsel for the parties. This appeal takes exception of the judgment of learned Single Judge dated 23.12.2010, allowing the writ petition, filed by the respondent-Company, which in turn, sets aside the award dated 13.10.2008, passed by the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh. The learned Single Judge has opined that the Tribunal committed manifest error in entertaining the grievance of the appellant, inspite of settlement dated 14.10.1986, operating between the parties, governing the issue of wages. It is not in dispute that first settlement took place between Company and the appellant Union on 17.11.1970. The terms of that settlement read thus:-

TERMS OF SETTLEMENT

1. It is agreed that the Management will regularize the services of casual workers (temporary) on the basis of 3 years continuous satisfactory service with effect from 1.5.1963 in consultation with the Union with immediate effect and the list of permanent workers will be issued by the management on or before 15.12.70 and subsequent in due course.

2. It is further agreed that the permanent workers will be entitled to the benefits of the contributory Provident Fund employer's contribution benefit at six & half

quarter of wages and the equivalent increase of will by of the

3. It is further agreed that the dispute is fully and finally resolved as per above terms of settlement.

2. From the plain language of this settlement, the issue about regularization of service of casual workers (temporary), who were members of the appellant-Union, was concluded and became binding on the parties. In the subsequent settlement entered between the Company and the appellant-Union on 14.10.1986, the issue regarding wages was resolved. The terms of that settlement read thus:-

TERMS OF SETTLEMENT

1. The prescribed minimum wages under the Minimum Wages Act, 1948 for daily rated workers by the Himachal Pradesh Govt. on the date of signing the agreement shall be the base wage and the same shall be revised as and when such wages are revised by the State Government of Himachal Pradesh for daily rated workers.

2. On the completion of one year's continuous service as defined under the Industrial Disputes Act, 1947 will be entitled to be fixed in the daily rated scale of wages as given below. The workmen who have completed 20 years of service at present (at the time of signing the agreement) shall be fixed at the maximum of the scale. The annual increment will be given from 1st October every year:-

Un-skilled: Rs. 13.00-0.25-15-0, 30-18, 60-0, 35-20.00 per day

Semi-skilled: 14.50-0.30-18.00-0.35-20.80 -do-Skilled: 18.00-0.40-24.00 per day

3. Daily rated workmen will be given 20% more wage over and above the surface wage for the day the work below-round.

4. The workmen who have completed one year's continuous service on the date of signing of this settlement will get the benefit under the scale of wages as aforesaid according to the length of its service.

5. All the workmen who have completed one year continuous service on the date of signing this agreement shall be paid a lump sum amount of Rs. 175/- per each year of service rendered from 23.8.75 upto the date of signing of this agreement.

6. The Manual haulage workers will be required to give the minimum daily output as given below:-

Where the manual haul distance is 150 metres- 8 qtls.

The additional each one quintal, Rs. 2.00 will be given extra.

7. The regular/permanent haulage workers and drillers will get one cotton uniform consisting of one half pant and a shirt per year.

8. This settlement shall be binding with parties to the settlement for a period of 5 years from the date of signing of the same and the workmen/union shall not raise any demand for the increase in wages for the period of this settlement.

9. This settlement is fully and finally settles of all the demands of the workmen/unions raised so far with the management including the demand pending for adjudication before Industrial Tribunal, Shimla under reference of Govt. of India, Min. of Labour & Rehabilitation Deptt., New Delhi order No. 290. II (97)/75-D III dated 23.8.75 and subsequent order dated 30.4.76, 27.5.81 and 20.12.84 in respect of wages etc. and all matters/disputes pending in the Industrial Tribunal-Labour Court at Shimla stands withdrawn from the date of signing of this settlement.

3. From the plain language of this settlement, it is obvious that the same was to remain in force for five years from the date of signing of the settlement. It is not in dispute that the settlement was duly executed by the appellant-Union. Notwithstanding this settlement, the Labour Court entertained the grievance of the appellant regarding non fixation of pay scale in the year 1990. The settlement regarding wages on the face of it, was to operate for a period of five years from 14.10.1986 and for that reason, the grievance regarding pay scale could not have been entertained by the Labour Court before expiry of the said settlement. It is common ground that the appellant-Union has so far not issued notice for change of terms of settlement and/or to terminate the settlement dated 14.10.1986. By virtue of Section 19, in particular sub-Section (2) of the Industrial Dispute Act, therefore, this settlement dated 14.10.1986 would be binding on the parties. The issue of pay scale cannot be segregated from the settlement of wages. The Labour Court, however, proceeded on the assumption that the issue of pay scale could be dealt with by it and the settlement of wages, which were still operative, would be no impediment to resolve that question. The learned Single Judge has over turned that opinion of the Labour Court. In our opinion, there is no infirmity in the view taken by the learned Single Judge in that behalf. As aforesaid, the pay scale cannot be disassociated from the settlement of wages, arrived at between the parties. On expiry of five years from the date of settlement, the appellant, if so advised, should have given notice of termination and for variance of the settlement. Having failed to do so, the Labour Court on its own could not have proceeded on the assumption that there was no settlement in that behalf between the parties, much less ignoring the binding settlement in terms of Section 19(2) of the Industrial Disputes Act.

4. Counsel for the appellant was at pains to rely on the exposition of the Apex Court in the case Maharashtra State Road Transport Corporation and Another Vs. Casteribe Rajya P. Karmchari Sanghatana, . In our opinion, reliance placed on this decision is completely inapposite and ill-advised. The issue is entirely different than the one arising in the present proceedings. We are not concerned with non regularization of the employees as such. The regularization has already been effected pursuant to the settlement dated 17.11.1970. The issue regarding

wages has also been crystallized in terms of settlement dated 14.10.1986 which, includes the issue of pay scale. Considering the indisputable position that no notice has been issued by the Union for variance and/or termination of settlement dated 14.10.1986, the Labour Court could not assume jurisdiction to answer the issue of pay scale, notwithstanding, the binding settlement between the parties dated 14.10.1986.

Hence Dismissed.