

(1991) 01 AHC CK 0140

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 15230 of 1986

U.P. State Sugar Corporation Ltd. Unit Bhatni

APPELLANT

Vs

The Competent Labour Commissioner and Another

RESPONDENT

Date of Decision : 11-01-1991

Acts Referred:

Industrial Disputes (Central) Rules, 1957 — Rule 4
Uttar Pradesh Industrial Disputes Act, 1947 — Section 3, 4F, 4K, 6H, 7

Citation : (1991) 1 AWC 397

Hon'ble Judges : R.K. Gulati, J;A.N. Verma, J

Bench : Division Bench

Advocate : H.S. Nigam, for the Appellant; Shyam Narain, for the Respondent

Final Decision : Disposed Of

Judgement

A.N. Verma, J.—The petition is directed against the order dated 22-5-86 passed by the Labour Commissioner holding that the Petitioner corporation is bound by the settlement reached between the management and the workmen on 23-6-74 as well as the Government order dated 15-7-82 and that the Petitioner should abide by the same.

2. The facts relevant for the decision of this petition are simple and may be stated thus. The Petitioner runs a sugar factory. It appears that there was a demand raised by the workmen of the factory for absorption of the heirs of the workmen who die in harness or who retire upon attaining the age of superannuation in the Petitioner factory in a post available and suitable for the heirs considering their fitness for the same. The demand eventually resulted in a settlement reached between the Management and the workmen. Under this settlement, the sons of the workmen were to be considered for appointment either on the death or retirement of their father employed in the Petitioner factory. It appears that in accordance with the settlement until 1981-82 as and when occasion arose, the sons of the workmen were absorbed in the Petitioner factory according to their suitability for the post falling vacant. Sometime in the

year 1982, however, the Petitioner Corporation appears to have declined to absorb the sons of the retiring employee or employees who had died in harness. The corporation took the stand that the Government was issuing various Government orders from time to time providing that the Petitioner corporation should first fill the vacancies arising from the death or retirement of employees with the applicants belonging to Schedule or Backward classes. Another ground put forward by the corporation was that under a G.O. dated 15-7-82 the corporation was obliged to fill up the vacancies only from what has been described as "surplus pool". All these factors were put forward by the corporation as grounds on account of which it was unable to comply with the terms of the settlement referred to above providing for absorption of the heirs of the employees in employment either on the death of the employees or their retirement. The workmen, on the other hand, claimed that the Management was bound by the terms of the settlement. The settlement had a binding effect and the Petitioner corporation could not be permitted to resile from the same on the grounds urged by them.

3. The dispute between the Management and the workmen was finally taken up by the Labour Commissioner who has passed the impugned order dated 22-5-86. Before the Labour Commissioner, both the parties advanced the pleas mentioned above. It appears that the Labour Commissioner on the basis of the stand taken by the parties proceeded to examine the matter and made an attempt to adjudicate whether the Petitioner was justified in not complying with the terms of the settlement dated 23-6-74. On a consideration of the various facts and circumstances mentioned in the impugned order, the Labour Commissioner came to the conclusion that the Petitioner was bound by the settlement and by the Government order dated 15-7-82. It had no option but to comply with the same. The Labour Commissioner has further observed that it was improper on the part of the corporation to resile from the terms of the settlement.

4. Aggrieved by the aforesaid order, the Petitioner has approached this Court. For the Petitioner it was urged that the Labour Commissioner was only acting as a Conciliation Officer u/s 4-F of the U.P. Industrial Disputes Act. As a Conciliation Officer all that the Labour Commissioner was authorised to do was to make an endeavour to bring about a settlement between the parties. If the Labour Commissioner found that it was not possible to bring about such a reconciliation he could only report the failure to the State Government for necessary action. He had no jurisdiction to embark upon any adjudication which is a function assigned only to the Labour Court or Industrial Tribunal u/s 4-K or 6-H etc. of the Industrial Disputes Act.

5. The learned Counsel seems to be right in his contention. As a conciliation Officer the Labour Commissioner is authorised u/s 4-K only to mediate in and promote industrial disputes in the manner prescribed under the statute. Rule 4 of the U.P. Industrial Disputes Rules lays down the powers, procedure and duties of conciliation Officers. The provision only authorises the Conciliation Officers to

hold meetings of the representatives of all the parties and try and attempt to bring about an amicable settlement between them. If no settlement is reached, the Conciliation Officer submits the report of his failure to the State Government setting forth the steps taken by him for ascertaining the facts and bringing about reconciliation between the parties. In any case, the Labour Commissioner has not been invested with any adjudicatory powers, that is, the power to determine industrial disputes. That power belongs to the Labour Court or Industrial Tribunal upon a reference made u/s 4-K. Nor has the Labour Commissioner been authorised to exercise the powers for recovery of money due from an employer u/s 6-H of the said Act. Even u/s 6-H the power which a Labour Court has been authorised to exercise is to determine the amount which may be due to a workman from an employer under the provisions of the Act or under a settlement and to recover the same in accordance with the procedure laid down therein. Under this provision claims to only such benefits as may be computed in terms of money can be examined. The present is not a claim of that nature at all. The claim is for seeking employment of persons who have yet to become workmen. u/s 7(ii) of the Act also the power to enforce in the Prescribed manner the whole or any part of an agreement between the parties to an industrial dispute vests only in the State Government and not in the labour Commissioner and that too for the purpose contemplated u/s 3 of the Act for the limited purpose of preventing strikes, lock-outs, etc

6. It will thus be seen that the Labour Commissioner did not have the power to adjudicate the dispute raised between the parties, namely, whether the settlement reached between the parties was still binding on them or whether the stand taken by the Petitioner that it had been disabled from performing its obligations in view of the Government Orders issued from time to time since the settlement, was correct or not. Nor did the Labour Commissioner have the power to direct the enforcement of that settlement. The Labour Commissioner thus clearly travelled beyond his, powers in proceeding to determine the aforesaid disputes or to issue directions to the parties with regard to the settlement.

7. It is, however, not necessary to quash the order as, in our opinion, the order can at least serve the purpose of a report regarding his failure to bring about reconciliation between the parties or to show that an industrial dispute exists. As the order cannot be enforced by itself, we are declining to quash the same or to enter into the merits of the various findings recorded therein. We should not, however, be taken to have expressed any opinion on whether the Petitioner was justified in taking the stand that it could not be compelled to comply with the terms of the settlement. Nor is this Court expressing any opinion as to the issue whether the Government Orders issued from time to time have altered the position or disabled the Petitioner from complying with the terms of the settlement. These are all matters which are left to be determined in appropriate proceedings by the competent authority, within the frame work of the U.P. Industrial Disputes Act.

8. With these observations, the petition is disposed of. There will, however, be no orders as to costs.

9. A copy of this order may be given to the learned Counsel for the parties within a week on payment of requisite charges.