
(2013) 01 UK CK 0040

In the Uttarakhand High Court

Case No : Writ Petition No. 134 of 2013 (M/S)

Uttam Sugar Mills Co. Ltd.

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 18-01-2013

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 3(b)

Citation : (2013) 01 UK CK 0040

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Advocate : M.S. Tyagi, for the Appellant; K.P. Upadhyay, C.S.C. for the State/ respondent nos. 1 to 4 and Mr. D.S. Mehta, holding brief of Mr. M.C. Pant, Advocate, for the Respondent

Judgement

B.S. Verma, J.—Urgency Application No. 271 of 2013 is allowed. Heard.

2. By means of this writ petition, the petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 21.08.2012 notified in the Gazette on dated 8.9.2012 (contained as Annexure-1 to this writ petition).

3. Impugned Notification has been assailed mainly on the ground that the State Government has no power to pass order under clause (b) of Section 3 of U.P. Industrial Disputes Act retrospectively. Other grounds have also been taken to assail the Notification.

4. Learned Counsel for the petitioner has placed reliance upon the judgment delivered by the Full Bench of the Allahabad High Court in the case of Basti Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others, , wherein the Full Bench of the Allahabad High Court, in para-21, held:-

...it is clear that cl. (b) of S. 3 U.P. Industrial Disputes Act cannot be given any retrospective effect. There are no words at all in this section which may indicate that the legislature expressly intended that this provision of law should operate retrospectively so as to govern terms and conditions of employment agreed to

between the employers and employees and already acted upon before orders are passed by the State Government in exercise of the powers conferred by Cl.(b) of S. 3 of the Act. There are, in fact, no words at all in this provision to indicate that the legislature could even have impliedly intended to lay down that orders passed under Cl.(b) of S. 3 might be given retrospective effect so as to alter terms and conditions of employment agreed upon and carried out prior to the passing of the orders. In our view, the language of this provisions is such as to give a clear impression of the intention of the legislature that orders under it must be purely prospective so as to govern future terms and conditions of service.

5. This order was assailed before the Supreme Court by the State of U.P. by filing Special leave to petition. The Apex Cour, in State of Uttar Pradesh and Others Vs. Basti Sugar Mills Co., Ltd., , in paragraph 4, held:-

We entirely agree with the learned judges of the Allahabad High Court that Cl.(b) of S. 3 cannot be given a retrospective effect...

6. The appeal of the State of U.P. was allowed by the Apex Court on the issue of bonus that is payable of the period also.

7. Having considered the submissions of the learned Counsel for the parties and considering the judgments of the Allahabad High Court as well as the Supreme Court, prima facie this Court is of the view that the notification has to be given effect prospectively, therefore, as an interim measure, till the next date of listing, the wages to the workmen of wageboard be paid prospectively and the revised wages of the workmen of the Wageboard from 1.10.2010 to 21.8.2012 shall not be recovered. Stay Application No. 476 of 2013 is disposed of.