
(2019) 05 UK CK 0204

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 362, 298 Of 2017, 134, 145, 155, 189 Of 2013

Uttam Sugar Mills Ltd. Libberheri, Roorkee, Haridwar & Others APPELLANT
Vs

State Of Uttarakhand And Others RESPONDENT

Date of Decision : 17-05-2019

Acts Referred:

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

Citation : (2019) 05 UK CK 0204

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : A.S. Rawat, Dharmendra Barthwal, S.N. Babulkar, Paresh Tripathi, M.C. Pant, Navneet Kaushik, S.N. Babulkar, Paresh Tripathi, Chief, A.K. Sharma

Final Decision : Disposed Off

Judgement

Sudhanshu Dhulia, J

1. In these bunch of writ petitions, private sugar mills of Uttarakhand are before this Court as petitioners challenging the order passed by the State Government which has been made under Section 3(b) of the U.P. Industrial Disputes Act, 1947. The powers under which the impugned order has been passed are emergency powers, which are given to the State Government to meet a particular contingency. The relevant provision of Section 3(b) of the U.P. Industrial Disputes Act, 1947 reads as under:

"3. Power to prevent strikes, lock-outs, etc. - If, in the opinion of the State Government it is necessary or expedient so to do for securing the public safety or convenience or the maintenance of public order or supplies and services essential to the life of the community, or for maintaining employment, it may, by general or special order, make provision -

(a).....

(b) for requiring employers, workmen or both to observe for such period, as may

be specified in the order, such terms and conditions of employment as may be determined in accordance with the order;

(c)

(d)

(e)

(f)

(g)

Provided that no order made under clause (b) -

(i) shall require an employer to observe terms and conditions of employment less favourable to the workmen than those which were applicable to them at any time within three months preceding the date of the order."

2. In this case, effectively what has been done by the State Government while exercising powers under Section 3 (b) of the U.P. Industrial Disputes Act, 1947 is to increase the wages of the workers which includes skilled, semi-skilled and unskilled workers in sugar factories. This has been done considering various parameters in mind such as rate of inflation, variable dearness allowance, etc. and by adoption of a certain formula. This Court has been apprised that under law, salaries of workers (including workers in the sugar factories) have to be determined by a wage board which periodically sits and determines these wages. This Court has also been apprised that the last wage board which considered the wages of the workers was in the year 1992 and after 1992 there is no report of any wage board. In the State of Uttar Pradesh as well as in the State of Uttarakhand, the only provision under which the buying capacity of the worker can meet the inflationary trend is by invoking powers under Section 3 (b) of the U.P. Industrial Disputes Act, 1947. This can be done after hearing all the concerned parties specially by a tripartite agreement.

3. In the writ petitions pertaining to the year 2013 i.e. Writ Petition (M/S) No. 134 of 2013, Writ Petition (M/S) No. 145 of 2013, Writ Petition (M/S) No. 155 of 2013 and Writ Petition (M/S) No. 189 of 2013, the order dated 8.09.2012 passed by the State Government under Section 3(b) of the U.P. Industrial Disputes Act, 1947 increasing the wages of the workers of the sugar factory has been challenged. No order is being passed in these writ petitions. For all practical purposes these writ petitions have become infructuous. The reason being that during the pendency of these writ petitions, another order dated 29.12.2016 has been passed by the State Government under Section 3(b) of the U.P. Industrial Disputes Act, 1947, which is also under challenge.

4. Consequently, Writ Petition (M/S) No. 134 of 2013, Writ Petition (M/S) No. 145 of 2013, Writ Petition (M/S) No. 155 of 2013 and Writ Petition (M/S) No. 189 of 2013 are dismissed as having been rendered infructuous.

5. In Writ Petition (M/S) No. 298 of 2017 and Writ Petition (M/S) No. 362 of 2017, the petitioners have challenged the order dated 29.12.2016 passed by the State Government under Section 3(b) of the U.P. Industrial Disputes Act, 1947 and the present order is being passed in those writ petitions.

6. The principal ground of challenge is that there has been a wrong application of variable dearness allowance by the State Government while calculating the wages. The second challenge is that 50% increase in the wages has been made twice, whereas it was only liable to be made once. This is being strongly contested not only by Mr. S.N. Babulkar, learned Advocate General assisted by Mr. Paresh Tripathi, learned Chief Standing Counsel for the State, but also by Mr. M.C. Pant and Mr. A.K. Sharma, learned counsels representing the workers union.

7. Two years have already passed since these wages have been determined. There is a serious challenge as to the wrong calculation done by the State, which has to be looked into. Without interfering with the impugned order, the matter is sent back to the State Government, who shall hear all the concerned parties and pass an appropriate order. Let a decision be taken within a period of two months from the date of production of a certified copy of this order. It is also advisable for the State Government to consider formation of a wage board, which shall look into the aspect of wages, as that will be in the interest of the State Government as well as the workers.

8. Writ Petition (M/S) No. 298 of 2017 and Writ Petition (M/S) No. 362 of 2017 stand disposed accordingly.