

(1993) 11 SC CK 0012
In the Supreme Court Of India
Case No : Slp (C) No. 9923 Of 1989

Workmen

APPELLANT

Vs

I.I.T.I. Cycles of India Ltd. and Others

RESPONDENT

Date of Decision : 02-11-1993

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 18(1)

Citation : (1995) 2 LLJ 688(2) : (1995) 2 SCC 733 Supp

Hon'ble Judges : Yogeshwar Dayal, J; P. B. Sawant, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This petition is directed against the order of the High Court upholding the refusal of the State Government to make reference of the industrial dispute for adjudication under the Industrial Disputes Act 1947. While refusing to make the reference, the State Government has stated as follows:

It is seen that there is a subsisting Section 18(1) settlement entered into as early as in 1978 by the recognised union which has the support of the majority of workers. The validity of this settlement was questioned by these two minority unions before the Industrial Tribunal, Madras. But the Industrial Tribunal held that the terms of this settlement were fair and just. Further, the recognised union is also having direct negotiations with the management on the various issues now raised.

Hence the Government consider that there is no case to refer the issue in dispute for adjudication.

2. It will be apparent from the above order: that one of the facts which has weighed with the State Government is the award of the Tribunal by which the Tribunal had held that the terms of the settlement entered into with one of the recognised unions which had the support of the; majority of workers were fair and just. It is this finding of the Tribunal which has been incorporated in the

order. The finding that the terms of the settlement were fair and just was not that of the Government and, therefore, it cannot be said as urged by Mrs. Ramamurthi that it is the Government which has thereby adjudicated merits of the dispute. Secondly, the fact that the settlement had the support of the majority of the workers is not disputed before us. What is, however, urged is that this cannot preclude the minority union from raising an industrial dispute. We agree with the said contention. However, it is not obligatory on the part of the State Government to make a reference of the dispute in each and every case where the Union seeks such a reference. The Government has to weigh the facts keeping in mind the objective of industrial peace and smooth industrial relations between the parties. If, taking into consideration all the facts, the Government finds that in the interest of industrial peace, it is not necessary to make the reference, it may not do so. The Government has given reasons why it felt that in the present case, there was no case to make the reference and the reasons given cannot be said to be irrelevant. The question, therefore, is not whether in the present case, minority union or unions had or had no right to ask for a reference. The Government has not negated the case of the unions for making the reference on the ground that they commanded membership of minority of the workmen. We do not read the said order as such. Lastly, we also find that after the 1978 settlement, there have been at least two more settlements and the present dispute is not only stale but has become completely irrelevant.

3. The SLP is, therefore, dismissed.