

A. Narayan Rao and ors. Vs. State of Bihar and ors.

A. Narayan Rao and ors. Vs. State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/125125

Court : Patna

Decided On : May-12-2004

Judge : Aftab Alam, J.

Acts : [Industrial Disputes Act, 1947](#) - Sections 25FFF

Appeal No. : Civil Review No. 164 of 2002

Appellant : A. Narayan Rao and ors.

Respondent : State of Bihar and ors.

Advocate for Def. : Y.V. Giri and Tej Bahadur Roy, Advs.

Advocate for Pet/Ap. : Rajendra Prasad Singh, Arvind Kumar Singh and Rajeev Kumar Singh, Advs.

Disposition : Petition dismissed

Prior history : Aftab Alam, J. 1. This Civil Review seeks to keep alive the controversy arising from the closure of the Hot Dip Plant (H.D.P.), one of the units of the Tin Plate Company, Jamshedpur. 2. The employer/management obtained permission for closure of the unit as required under Section 250 (5) of the Industrial Disputes Act, from the Appropriate Government vide order dated 16.3.2000. The Appropriate Government granted permission for closure having regard to the introduction of a scheme of Voluntary r

Judgement :

Aftab Alam, J.

1. This Civil Review seeks to keep alive the controversy arising from the closure of the Hot Dip Plant (H.D.P.), one of the units of the Tin Plate Company, Jamshedpur.

2. The employer/management obtained permission for closure of the unit as required under Section 250 (5) of the Industrial Disputes Act, from the Appropriate Government vide order dated 16.3.2000. The Appropriate Government granted permission for closure having regard to the introduction of a scheme of Voluntary retirement by the management for the workmen of the unit.

3. After the grant of permission for closure by order, dated 16.3.2000 the workmen employed in the unit, about 1000 in number, were left with two options, either to accept the package under the V.R.S. or to accept a much lower amount of statutory retrenchment compensation.

4. It was at that stage that the 4 workmen of the unit (T.V.R) Raju and three others) came to this Court in CWJC No. 2933 of 2000, challenging the order, dated 16.3.2000 by which the employer was given the permission of closure of the unit by the Appropriate Government . In course of hearing of that case this Court suggested that the management should offer some more benefits to the workmen, facing retrenchment as a result of closure of the unit. The management responded positively to the suggestion. The Court then tried to persuade the four petitioners to accept the additional package offered by the management and they did so. That writ petition was therefore disposed of, in agreed terms, by order dated 14.8.2002.

5. It may be noted here that by the time the dispute came before the Court a majority of the workers (out of about 1000 employed in the unit at the time of its closure on 14.10.1999) had accepted the V.R.S., originally offered by the company and it was represented before the Court that there were 268 workmen, including the 4 writ petitioners, who were still resisting the closure of the unit. It may further be noted that though in the writ petition the 4 petitioners claimed to have moved

the Court in representative capacity and claimed to represent all workers of the unit, the Court did not accept their assertion on its face value and took care not to pass an order that might jeopardise the interests of those who were not before the Court. It was, therefore, made clear that though the order of the Court, passed with the express consent of the parties would bind the parties before the Court, the additional package offered by the management shall be equally available to the remaining 264 workmen of the Unit who were not before the Court. It was accordingly observed in the order dated 14.8.2002 as follows :

'Though the terms of the settlement enumerated hereinafter in this order are between the management and the four petitioners, the management expressly agreed that the same terms would also be available to the rest of the 264 workmen (from the list of 268 workers submitted today) even though they are not before this Court.'

6. It was further observed as follows :

'This settlement is offered by the management expressly and specifically in respect of the 268 workmen whose list has been given today and which lies on the record of this case. This order which incorporates the bipartite agreement between the management and the 268 workmen shall not extend to anyone else beyond the 268 workmen.'

7. After the writ petition was disposed of in terms agreed upon between the parties this review petition was filed on behalf of 159 workers of the unit.

8. Before this review petition was taken up by the Court the closure of the unit was repeatedly sought to be challenged before the Jharkhand High Court. First, a writ petition being W.P.(PIL)No.275 of 2002 was filed, purportedly in Public Interest. That writ petition was dismissed by order dated 10.1.2002. A Special Leave to Appeal against that order was also dismissed by the Supreme Court by order, dated 8.7.2002 in SLP (Civil) No. 10129 of 2002. Later on, another writ petition being W.P. (PIL) No. 5351 of 2002 was filed by one Tapas Kumar Chatterjee claiming to be a workmen of the unit. That writ petition too was dismissed by a reasoned order dated 6.8.2003.

9. It was only then this review was taken up before this Court.

10. In the counter affidavit filed on behalf of the management a list of 16 persons, petitioners in the Civil Review in hand, is enclosed stating that they had already accepted the additional package in terms of the order under review. Those 16 persons therefore, cannot maintain this review petition and in all fairness the statement that they had accepted the additional offer in terms of the order under review and were, therefore, withdrawing from the review petition ought to have come from them.

11. Be that as it may, Mr. Rajendra Prasad Singh, Sr. Counsel appearing in support of this review petition was heard at length.

12. It may be noted at the outset that Mr. Singh did not challenge the legality or validity of the order dated 16.3.2002 (Sic-2000?) by which the Appropriate Government granted permission for closure; nor did he question the validity of the order dated 14.8.2002 by which the earlier writ petition was disposed of .

13. Mr. Rajendra Prasad Singh, in substance, prayed for a better deal for the retrenched workmen of the closed unit. He invited my attention to a scheme of voluntary retirement introduced by the company in regard to its employees working in the units, other than the Hot Dip Plant which was closed on 14.10.1999. Mr. Singh pointed out that the current V.R.S. offered by the company to its employees was more beneficial than the V.R.S. offered to the workers of the H.D.P., even taking into account the additional package in terms of the order of the Court. He strongly pleaded that the retrenched workers of the Hot Dip Plant should have also been given the same package as was now being offered to the workers of the company employed in other units.

14. Mr. Singh further submitted that if this was not acceptable to the Court there was the balance-sheet of the company which showed that for the year 2001-02 the company had made a profit of Rs. 1,01,78,000/- and for the year 2002-03 a profit of Rs. 2,01,70,000/- and, therefore, the company was surely able to give a better deal to its retrenched employees of the Hot Dip Plant, Mr. Singh made an earnest appeal to the Court to modify the order under review and to direct the company to

pay to the workmen monthly salary for atleast 136 months in place of 100 months as provided in that order.

15. Mr. Y.V. Giri, counsel for the management explained that the submission made on behalf of the petitioners on the basis of the balance-sheet was quite misconceived. He pointed out that till the year 2000-01 the company was making losses every year for the past five years and the accumulated losses of the company stood at Rs. 1,44,90,71,000/-. The company was able to make very little profit only after the closure of the Hot Dip Plant and after taking into account the profits made for the years 2001 -02 and 2002-03. The accumulated losses still stood at Rs. 1.40,37,23,000/-.

16. On hearing counsel for the parties at some length, I am plainly of the view that the grounds urged on behalf of the petitioner hardly make out a case for review of the order. The review petition is dismissed but with no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com