

C.B. Sarma and ors. Vs. the State

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Court : Guwahati

Decided On : Dec-21-1960

Judge : H. Deka, J.

Appellant : C.B. Sarma and ors.

Respondent : The State

Judgement :

H. Deka, J.

1. This rule was obtained by three persons who were convicted under Section 27 of the Industrial Disputes Act and sentenced to one week's simple imprisonment and a fine of Rs. 50/- each. On an appeal preferred by the accused persons the learned Sessions Judge reduced the sentence of imprisonment to one day's simple imprisonment, namely, till the rising of the court and the sentence of fine was kept intact. It is against this conviction and sentence passed by the Sessions Judge that the petitioners have come up to this Court.

2. The findings are very conclusive and there is no substance in the petition at all. What happened is that the accused persons instigated a strike amongst the sweepers of the Gauhati Municipality. Two of the accused persons Jayashri Harijan and Munilal Harijan were the President and the Vice-President respectively of the organisation known as Harijan Sangha and the other accused C.B. Sarma was an enthusiast who identifies himself with the cause of the Harijans and had

encouraged an illegal strike.

The prosecution case is that the sweepers of Gauhati Municipality went on strike from 11th November 1958 till 15th November 1958 after serving a notice on 28th October 1958 on the Chairman of the Gauhati Municipality, purported to be issued by the President of the Harijan Sangha calling a strike on 11th November 1958 for non-payment of enhanced cleanliness allowance to Harijans.

A similar notice was received by the Labour Officer, Gauhati on 28th October 1958 and that at the time a conciliation proceeding between the Municipal Board and the Harijans was in progress; the Labour Officer also received a letter dated 4th November 1958 from the Chairman, Gauhati Municipality intimating that he had no information from the Government regarding the sanction of additional dearness allowance and that he had sent a telegram to the Secretary, Local Self-Government, Assam. The Labour Officer for-warded a copy of the letter of the Chairman to the President of the Harijan Sangha requesting him not to resort to the strike.

He further intimated the President that it was illegal to go on strike without giving six weeks' time when a conciliation proceeding was pending. In spite of these notices, the sweepers went on strike and the evidence is that these accused persons took initiative in the matter of encouraging the strike. The courts below have accepted the evidence on the point and have found the accused persons guilty for instigating the illegal strike as is contemplated under Section 27 of the Industrial Disputes Act.

3. The learned Advocate for the petitioners has contended before me that there is no evidence to prove that a conciliation proceeding was pending and that six weeks' time was not necessary as such, for the purpose of serving the notice. The courts below were in error in insisting on six weeks' time for the notice, but the clause that really mattered was Clause (d) of Section 22 of the Industrial Disputes Act. The relevant clauses are Clauses (b) and (d) of Section 22(1), which read as follows:

(1) No person employed in a public utility service shall go on strike in breach of contract

(b) within fourteen days of giving such notice; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

4. The courts below have accepted the deposition of the Labour Officer to the effect that a conciliation proceeding was pending at the time and I see no reason to go behind that finding. Since the strike was resumed before the conciliation proceeding terminated, it was hit by Subsection (1)(d). Sub-section (1)(b) of Section 22 of the Industrial Disputes Act, as quoted, lays down that no person employed in a public utility service shall go on strike in breach of contract within fourteen days of giving such notice.

It is not questioned that the sweepers were employed in public utility service and that wilful abstaining from work amounted to breach at contract. In this case the strike was resorted to within fourteen days of the notice and therefore even from this consideration the strike was illegal. Section 27 speaks of encouraging or instigating illegal strikes. In this case evidence is sufficient to prove that the strike was illegal and the petitioners had taken definite part in instigating the same. Under these circumstances the conviction was amply justified and the sentence rather lenient. The rule is therefore, discharged and fines if not paid, should now be realised.

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