

The Management of Bata India Limited Vs. Workmen of Bata India Limited and anr.

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Court : Karnataka

Decided On : Nov-13-2002

Reported in : [2003(97)FLR269]; 2003(1)KarLJ488; (2003)IILLJ68Kant

Judge : G.C. Bharuka and ;S.B. Majage, JJ.

Acts : [Industrial Disputes Act, 1947](#) - Sections 10(1) and 10B(2); [Constitution of India](#) - Article 226

Appeal No. : Writ Appeal No. 5695 of 2002

Appellant : The Management of Bata India Limited

Respondent : Workmen of Bata India Limited and anr.

Advocate for Def. : K.S. Subramanya, Adv. for Respondent-1

Advocate for Pet/Ap. : S. Vijayashankar, Sr. Adv. for ;B.C. Prabhakar and ;C.K. Subramanya, Advs.

Disposition : Appeal allowed

Judgement :

G.C. Bharuka, J.

1. The appellant is a public limited company. It is engaged in manufacture of shoes of various types. One of its factories is set up at Peenya Industrial Area, Bangalore. This factory is known as 'Southcan'.

2. It appears that for certain reasons, the appellant had declared lockout of its factory with effect from 1-10-2001. This has caused an industrial dispute between the workmen and the management. Since conciliation had failed between the parties, the Government, having been appraised of the same, it by order dated 1-1-2002 (Annexure-A) made a reference under Section 10(1)(c) and (d) of the [Industrial Disputes Act, 1947](#) (in short the 'Act') on the following points:

'1. Whether Eata Employees Association proves their allegation that the lockout declared by Bata India Limited Management, 4thPhase, Peenya Industrial Area, Bangalore-58, with effect from 1-10-2001 is illegal and unjustified?

2. In case if the lockout declared by Bata India Limited is proved as illegal and awarded accordingly then, for what relief the workmen are entitled to for the said period of lockout?'

3. Simultaneously, the Government also passed interim order on 1-1-2002 in terms of Section 10-B of the Act which read as under.-

'Out of the total number of workmen, considerable number of workmen give individual undertaking as hereunder, in respect of such workmen, the Management should lift the lockout:

1. The workmen while working in Machine Nos. 221 to 225 should give 600 pairs of shoes as per Settlement dated 13-3-1998.

2. The workmen while working on 226 Machine should give 1200 pairs of shoes as per Settlement dated 14-12-1998.

3. The workers should pack 3000 pairs, 2300 pairs, 2300 pairs, 2800 pairs and 2300 pairs respectively while working in Machine Nos. 226, 225, 224, 223 and 221'.

4. The correctness of the above interim order passed by the Government has been assailed by the workmen through their union by filing a writ petition in W.P. No. 22282 of 2002, which is still pending for final disposal. During the pendency of the said writ petition, the workmen filed I.A. No. 3 on 23-10-2002 seeking stay of the interim order dated 1-1-2002 passed by the State Government (Annexure-B) which has been impugned in the writ petition. By the impugned order dated 24-10-2002, against which the present appeal has been filed, the learned Single Judge stayed the order of the State Government passed under Section 10-B of the Act.

5. On hearing the parties, we are of the considered opinion that in view of Sub-section (2) of Section 10-B of the Act, the filing of I.A. No. 3 by the workmen seeking stay of the operation of the order of the Government was per se misconceived. The reasons for the same become writ large on bare reading of the relevant provisions.

6. For proper appreciation of the issue involved herein, we reproduce Section 10-B of the Act in its entirety. It reads thus.-

'Section 10-B. Power to issue order regarding terms and conditions of service pending settlement of dispute.--(1)Where an industrial dispute has been referred by the State Government to a Labour Court or a Tribunal under Sub-section (1) of Section 10 and 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 or industrial peace in the establishment concerning which such reference has been made, it may, by general or special order, make provision,--

(a) for requiring the employer or workman or both to observe such terms and conditions of employment as may be specified in the order or as may be determined in accordance with the order, including payment of money by the employer to any person who is or has been a workman;

(b) for requiring any public utility service not to close or remain closed and to work or continue to work on such terms and conditions as may be specified in the order;

and

(c) for any incidental or supplementary matter which appears to it to be necessary or expedient for the purpose of the order;

Provided that no order made under this sub-section shall require any employer to observe terms and conditions of employment less favourable to the workman than those which were applicable to them at any time within three months immediately preceding the date of the order.

Explanation.--For the purpose of this sub-section, 'public utility service' means,--

(i) any section of an industrial establishment on the working of which the safety of the establishment or the workman employed therein depends;

(ii) any industry which supplies power, light or water to the public;

(iii) any industry which has been declared by the State Government to be a public utility service for the purpose of this Act.

(2) An order made under Sub-section (1) shall cease to operate on the expiry of a period of six months from the date of the order or on the date of the award of the Labour Court or the Tribunal, as the case may be, whichever is earlier.

(3) Any money paid by an employer to any person in pursuance of an order under Sub-section (1), may be deducted by that employer from out of any monetary benefit to which such person Becomes entitled under the provisions of any award passed by the Labour Court or the Tribunal, as the case may be'.

7. Reading of Sub-section (2) of Section 10-B of the Act as reproduced above makes it abundantly clear that the order made under Sub-section (1) of Section 10-B of the Act ceased to operate on expiry of a period of six months from the date of the order or on the date of the award of the Labour Court or the Tribunal as the case may be, whichever is earlier.

8. In the present case, the interim order, as noticed above, was passed on 1-1-2002. Therefore, by operation of law itself, the order passed under Sub-section (1)

of Section 10-B of the Act became non-operational after 30-6-2002. This being so, it was no more available for any adjudication by this Court.

9. In the above view of the matter, there was no occasion on the part of the learned Single Judge to stay the order dated 1-1-2002 which had already spent its life. Therefore, we set aside the order of the learned Single Judge.

10. Accordingly, the writ appeal is allowed. There will be no order as to costs.

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