

Bidyadhar Mohapatra and ors. Vs. District Labour Officer-cum-conciliation Officer and ors.

Bidyadhar Mohapatra and ors. Vs. District Labour Officer-cum-conciliation Officer and ors.

SooperKanoon Citation : sooperkanoon.com/528183

Court : Orissa

Decided On : Feb-12-1998

Reported in : [1998(79)FLR172]; (1999)ILLJ138Ori

Judge : Susanta Chatterji and ;P.K. Mohanty, JJ.

Acts : [Industrial Disputes Act, 1947](#) - Sections 2

Appeal No. : O.J.C. No. 8549/1996

Appellant : Bidyadhar Mohapatra and ors.

Respondent : District Labour Officer-cum-conciliation Officer and ors.

Advocate for Def. : J.K. Tripathi, ;A.K. Panda, ;B.P. Tripathy, ;S.N. Misra, ;A. Mahant and ;D. Satpathy, Advs.

Advocate for Pet/Ap. : S.K. Nayak, ;A.K. Baral, ;K. Ray and ;P.K. Patra, Advs.

Disposition : Petition dismissed

Judgement :

Susanta Chatterji, J.

1. Bidyadhar Mohapatra and 15 others are the employees of Store Section, Ispat General Hospital, Rourkela Steel Plant, Rourkela. They have jointly filed the present writ petition for issuance of a writ of mandamus to set aside the settlement dated August 7, 1996 between the Management of Rourkela Steel Plant and its Workmen employed in Medical Department represented by Rourkela Shramik Sangh (Recognised Union).

2. It is contended that the settlement dated August 7, 1996 is contrary to law resulting in prejudice to the interest of the petitioners without affording reasonable opportunity to them. In fact, petitioners 1 to 7 have been promoted to the post of Head Storekeepers, petitioners 8 and 9 have been promoted to the post of Senior Storekeepers and petitioners 10 to 16 are continuing as Assistant Storekeepers.

3. It is further stated that right from their entry to the service the post in Store Section of Ispat General Hospital is being treated to be separate cadre. Petitioners 1 to 9 were promoted to different higher grades according to their seniority maintained in the Store Section. This seniority list of the Store Section treating it to be a different cadre is being maintained right from the creation of the Store Section of Ispat General Hospital of Rourkela Steel Plant.

4. In the Medical Department of the Rourkela Steel Plant, Pharmacists are being appointed after having been selected by a duly constituted Selection Committee. The Pharmacists so appointed belong to Pharmaceutical Section, and they belong to a separate cadre right from the date of its incorporation i.e. from 1963.

5. It is stated that the promotional channels for the recruits of the two sections are different and promotions are given in these two sections separately taking into account the performance of their respective duties prescribed for the respective section. Accordingly, separate seniority lists and separate promotion channels are being maintained for the Store Section and Pharmaceutical Section.

6. It is alleged that at the behest of some of the Pharmacists of the Pharmaceutical Section, opposite party No. 5 on behalf of Rourkela Shramik Sangh behind the back of the petitioners reached a settlement with the other opposite parties to amalgamate the two sections. As a token of such decision they agreed to arrive at

a settlement which is annexed as Annexure-6 to the writ petition. As per Clauses 1 to 3 of the said settlement, they have decided to merge the two sections i.e., Store Section and Pharmaceutical Section. This illegal action was done by the opposite parties at the behest of some of the Pharmacists and without knowledge of the petitioners who filed an application on April 11, 1996 before opposite party No. 3. Since the entertainment of such an application was highly prejudicial to the petitioners' interest, they filed an application before opposite party No. 3 stating therein their grievance on April 19, 1996 which has been annexed as Annexure-8 to the writ petition. It is averred in the writ petition that opposite party No. 5 being the representative of the Rourkela Shramik Sangha has intentionally and with mala fide intention in collusion with other opposite parties deliberately arrived at a settlement to harass the petitioners on the ground that the petitioners do not belong to opposite party No. 5 Union. The amalgamation of two sections is illegal and void ab-initio and opposite party No. 5 has no jurisdiction to merge the said two sections without being backed by the policy decision of the Management.

7. Making all such allegations, the petitioners have come to the writ Court seeking the reliefs as indicated above.

8. A counter affidavit has been filed on behalf of opposite parties 2, 3 and 4 sworn by the Chief Personnel Manager of Steel Authority of India Ltd., Rourkela Steel Plant, Rourkela. It is disclosed, inter alia, that a tripartite settlement dated August 7, 1996 reached during conciliation under the [Industrial Disputes Act, 1947](#) by the opposite party-Management with the recognised Union representing majority of work force. The personnel working in the Store and Pharmaceutical Section in the Medical and Health Services Department of Rourkela Steel Plant having Diploma in Pharmacy as the basic qualification are competent to work in either of the sections. In order to have a policy for their promotion within a time bound frame, a tripartite settlement was signed with the recognised Union on April 21, 1990. The recognised Union brought it to the notice of the Management that uniformity should also be maintained in the working conditions of Pharmaceutical staff as well as Store staff as they are having some basic qualification and jobs are similar in nature. Accordingly views of the Union as well as Management were expressed extensively through protracted discussions in presence and participation of

Conciliation Officer (O.P. No. 1) and a settlement under the Industrial Disputes Act was reached on August 7, 1996.

9. It is submitted that Rourkela Steel Plant has a Medical Department having a hospital called 'Ispat General Hospital' and several Health Centres for treatment of its employees and their family members. In the said Hospital. the Management has employed the persons with qualifications of Medical Technician, Diploma in Pharmacy to work in the Dispensary and Medical Stores for supply/ distribution of medicines to the employees. The Medical Department purchases huge quantity of medicines which are stored in the Central Medical Store wherefrom the said medicines are supplied to different Departments of Ispat General Hospital to be given to the indoor patients and to the dispensaries of Health Centers and from the said dispensaries and Health Centres medicines are distributed to the employees and their family members free of costs, initially the employees working in the Dispensaries/ Health Centres and the Stores were interchangeable and combinedly considered for promotion to the posts of Senior Dispenser, Store Assistant, Store Keeper and Head Pharmacist as per agreed channel of promotion signed with the recognised Union. A copy of the channel of promotion has been annexed as Annexure B/2. In the year 1990 a tripartite settlement was signed by the Recognised Union providing for the non-Executive Promotion Policy and Channel of promotion for Medical Department in which cluster system of promotion was agreed by introducing a time bound promotion system. The system of promotion within the cluster has been further modified giving more benefit to the workmen including the petitioners as per which the eligibility criteria has been further reduced to four years.

10. It is submitted that the Recognised Union representing majority workers submitted a charter of demand on July 29, 1996 demanding merger of the lines of promotion of Pharmaceutical and Store Keeping Personnel of Medical Department on the ground that both in Store Section and Pharmaceutical Section the qualifications required for the employees as well as the nature of their work is similar. After detailed discussions before the Conciliation officer on the demand of the Union and taking into consideration the representation of the employees, it was agreed to provide a uniform growth opportunity and mobility to improve the

efficiency of the service rendered by the Department.

11. It is stated that the said demand of the Union gave rise to the conciliation proceeding and culminated in the tripartite settlement as at Annexure-6 to the writ petition. All other allegations of the writ petitioners have been denied. It is reiterated that the settlement being tripartite settlement, the same is binding on the petitioners and the allegations made by the petitioners are all misconceived.

12. A separate counter affidavit has been filed by opposite party No. 1, District Labour Officer-cum-Conciliation Officer, Rourkela. He has stated that the recognised Union, Rourkela Shramik Sangh made a charter of demand vide their letter dated July 29, 1996 to the Management of Rourkela Steel Plant endorsing a copy of the same to the Deputy Labour Commissioner, Rourkela followed with another letter on the self same subject and clarifying certain aspects of their demand. This opposite party invited view of the Management of Rourkela Steel Plant and called for a joint discussion of the matter. Accordingly joint enquiry was held and after prolonged deliberations when the matter could not be solved it was admitted into conciliation on August 6, 1996 as per the provisions of the Industrial Disputes Act. The conciliation was held, deliberations were made and finally the industrial dispute was resolved by reaching a settlement by the Management with the recognised Union representing the majority workmen involved in the dispute. It is stated that to maintain industrial peace and harmony and in the greater interest of the workmen covered in the agreement, the charter of demand of the Union was taken up for conciliation and with a positive attitude expressed by the Management for considering the charter of demand, it ended with a settlement which is for the benefit of the workmen concerned.

13. A rejoinder affidavit has been filed by the petitioners reiterating the same points and contradicting the averments made by the opposite parties in the counter affidavits. It is stated that the settlement is not fair and not made properly by following the provisions of law and principles of natural justice. Affecting any change in the service condition in pursuance of a void settlement cannot be said to be a valid change in the service condition.

14. Patiently we have heard the learned Counsel for the petitioners and for the opposite parties. Our attention has been drawn to the pleadings of the parties and the appropriate provisions of the Industrial Disputes Act. Our attention is also drawn to the decision reported in Trichur Urban Co-Op. Bank Ltd. v. District Labour Officer (1987-II-LLJ-39 (Ker)), The state of Punjab and Ors. v. Kailas Nath etc (1989-II-LLJ-209)(SC), and Kalinga Jute Products (Pvt.) Ltd. v. Presiding Officer, Industrial Tribunal and Ors.. (1980-I-LLJ-239)(Ori). Scope of Section 2(p) regarding settlement, submission of such settlement to Government, Rule requiring it to be sent 'jointly' and whether it is mandatory or directory as well as fixation of wages and norms to be followed have been discussed.

15. Upon perusal of the pleadings of the parties and considering the lengthy submissions made on behalf of the respective parties, we are of the view that the tripartite settlement arrived appears to be bonafide and in terms of the provisions of the Industrial Disputes Act. The petitioners being the employees in limited numbers cannot agitate as they are not members of the said Union. The Pharmaceutical Section and the Store Section cannot be two independent sections and the issues raised by the petitioners also appear to be not just and bonafide. The settlement has taken all the reasonable care to protect the interest of the employees of Pharmaceutical Section and the Store Section and proper promotion channels have been indicated. We do not find that the petitioners have suffered in the least due to the tripartite settlement as per Annexure-6 to the writ petition.

16. For the foregoing reasons, we do not find any merit in the writ petition and we dismiss the same accordingly. There would be no order as to costs.