Niranjan Singh Vs. the Delhi Administration and ors.

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Court : Delhi

Decided On : Aug-29-1970

Reported in : 7(1971)DLT263

Judge : M.R.A. Ansari, J.

Acts : Industrial Disputes Act, 1947 - Sections 18(3)

Appeal No. : Criminal Revision Appeal No. 404 of 1967

Appellant : Niranjan Singh

Respondent : The Delhi Administration and ors.

Advocate for Pet/Ap. : S.S. Chadha and; R.N. Dixit, Advs

Judgement :

M.R.A. Ansari, J.

(1) The petitioner who is the Manager of the 'K' Group of the Ithad Motor Transport (Private) Ltd. has ben convicted under section 29 of the Industrial Disputes Act and sentenced to pay a fine of Rs. 40.00 or in default to undergo rigorous imprisonment for three months.

(2) The prosecution case against the petitioner is that there was a dispute between the managemant of the Ithad Motor Transport (Private) Ltd. and and its workers

and that this dispute was referred by the Government to the Industrial Tribunal, Delhi, for adjudication. The Tribunal gave its award on 7th May, 1958 One of the terms of the award was that the management shall inform the workers about their duties a week prior to the change in duty save in exceptional circumstances This term of the award was implemented for sometime by the management. But later on the management stopped notifying the workers as requited under the award. This failure on the part of the management in

(3) The prosecution examined seven witnesses in the trial court, some of whom proved the award of the Industrial Tribunal and some other proved that the management was not implementing the term of the award relating to the advance intimation to be given to the workers about their work. The petitioner in his statement under section 342 Cr. P. C , while admitting that the management was not giving advance intimation to the workers as required under the award, however, stated that the workers themselves had agreed that such advance intimation need not be given. Six witnesses were examined on the side of the petitioner. Some of these witnesses were said to the employees of the company and stated in their evidence that giving of advance intimation to the workers about the duties allotted to them was found to be unworkable and that they had themselves asked the management to discontinue the practice. On the consideration of this evidence the learned trial court convicted the petitioner and sentenced him as stated above and that conviction and sentence have been confirmed by the Additional Sessions Judge in appeal. Shri Chadba, learned counsel for the petitioner, has urged two contentions before me namely : (1) that the award of the Industrial Tribunal was not binding upon the 'K' group of the Ithad Motor Transport (Private) Ltd. and (2) that it was not practicable to implement the term of the award inquiring the giving of the advance notice of work to the workers.

(4) In support of the first contention it has been pointed out that subsequent to the date of the award, the lthad Motor Transport (Private) Ltd. was divided into two groups namely, group 'K' and group 'V' and that each of these groups had a separate Board of Directors and separate management. On the basis of these facts, which are admitted by the prosecution, it is contended that the 'K' group of which the petitioner is the manger is a different legal entity from the company

which was a party to the proceedings before the Industrial Tribunal and that thereforee the award of the said Tribunal was not binding upon the 'K' group. Reliance has been placed upon a decision of the Bombay High Court in Christopher Pimenta and others v. Life Insurance Corporation of India In that case the Life Insurance Corporation had taken over various establishments of the Assurance Companies doing life insurance business and the question raised was whether the awards and settlements which were binding on the Assurance Companies prior to their being taken over by the Life Insurance Corporation were also binding upon the later. It was held that when the Life Insurance Corporation took over the various establishments and Assurance Companies, such establishments became merged into one unified establishment under the Life Insurance Corporation and that the establishments of the Assurance Companies ceased to retain their identity. The present case, however, is of the splitting up of a company into two groups, each group managed by a separate Board of Directors. This is not a case of the old company losing its identity and becoming merged into the 'K' group. The company itself was not wound up and it continues to exist and to retain its legal entity. For the sake of convenient management and in order to avoid disputes between the directors of the company, it has been divided into two groups. It is analogous to one set of directors being substituted by the another. This will not affect the legal position of the company. The 'K' group of the company is thereforee a party to the proceedings before the Industrial Tribunal and under section 18(3)(a) of the Industrial Disputes Act the award will be binding on the 'K' group. This contention of the learned counsel thereforee fails.

(5) In support of the 2nd contention reference has been made to the evidence of one of the prosecution witnesses namely P. W. 7 and to the evidence of the defense witnesses. P. W. 7 has, no doubt, stated in his evidence that the implementation of the relevant term of the award was found to be impracticable and, strangely enough, this statement was not challenged by the prosecution. The defense witnesses also have stated in their evidence that it was not practicable to implement this term of the award. But ultimately it is for the court to decide whether it was, in fact, impracticable to implement this term of the award. The only difficulty put forward on behalf of the management in respect of implementation of this term of the award is that one of the workers to whom advance intimation is

given may absent themselves on the particular day or at the particular time when according to the advance intimation they had to report for duty. Both the learned lower courts have held that this is not a lgenuine difficulty which would stand in the way of the implemeatation of the relevant term of the award by the management, Shri Chadha has not been able to convince me either that this is a genune difficulty The industrial Tribunal itself has considered this aspect and has given its ending in the following terms:-

'Ifind that the management shall as fir as practicable, inform the workers about their dunes a week prior to the change in duty, save in exceptional circumstances and on account of exigencies of service.'

If at a particular point of time some extraordinary circumstance prevents the management from giving advance intimation to the workers as required under the award, the management may be absolved for the time being from the duty of giving advance information to the workers but this will not justify the management from dispensing with this duty altogether. In other words',any temporary default committed by the management may be condoned but it will not be open to the management to say that they will not implement this term of the award at all. thereforee, the second contention of the learned counsel fails.

(6) In the result, the petition is dismissed.