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

Nathanson Vs. Labor Board

Nathanson Vs. Labor Board

SooperKanoon Citation : sooperkanoon.com/98657

Court : US Supreme Court

Decided On : Nov-10-1952

Appeal No. : 344 U.S. 25

Appellant : Nathanson

Respondent : Labor Board

Judgement :

Nathanson v. Labor Board - 344 U.S. 25 (1952)
U.S. Supreme Court Nathanson v. Labor Board, 344 U.S. 25 (1952)

Nathanson v. Labor Board

No. 33

Argued October 23, 1952

Decided November 10, 1952

344 U.S. 25

CERTIORARI TO THE UNITED STATES COURT OF APPEALS

FOR THE FIRST CIRCUIT

SYLLABUS

The National Labor Relations Board ordered a company to pay certain employees backpay. After an involuntary petition in bankruptcy had been filed against the company, the Court of Appeals decreed enforcement of the Board's order. The Board filed in the bankruptcy proceeding a proof of claim for the backpay.

HELD

1. The Board is a "creditor" as respects the backpay awards, within the meaning of the Bankruptcy Act. Pp. 344 U. S. 26 -27.

2. The Board's backpay order is a provable claim in bankruptcy -- as a debt founded upon an "implied" contract within the meaning of 63(a)(4) of the Bankruptcy Act. P. 344 U. S. 27 .

3. The Board's claim is not a debt due to the United States within the meaning of R.S. 3466, and it is not entitled to priority under 64(a)(5) of the Bankruptcy Act, though it is entitled to such priority as wage claims enjoy under 64(a)(2). *Bramwell v. United States Fidelity Co.,* 269 U. S. 483 , distinguished. Pp. 344 U. S. 27 -29.

4. Computation of the amount of the backpay award was properly referred to the Board by the bankruptcy court. Pp. 344 U. S. 29 -30.

(a) The fixing of the backpay is one of the functions confided to the Board as an administrative matter. Pp. 344 U. S. 29 -30.

(b) Wise administration demands that the bankruptcy court accommodate itself to the administrative process and refer to the Board the liquidation of the claim, giving the Board a reasonable time for its administrative determination. P. 344 U. S. 30 .

194 F.2d 24 reversed.

A proof of claim filed by the National Labor Relations Board, based on a backpay award against the bankrupt, was disallowed by the referee in bankruptcy. The District Court set aside the disallowance. 100 F.Supp. 489. The Court of Appeals affirmed. 194 F.2d 248. This

Page 344 U. S. 26

Court granted certiorari. 343 U.S. 962. *Reversed and remanded,* p. 344 U. S. 31 .

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Respondent, the National Labor Relations Board, issued a complaint against the present bankrupt company alleging unfair labor practices, and, after appropriate proceedings, ordered the bankrupt to pay certain employees backpay which they had lost on account of an unfair labor practice of the bankrupt. Before the order was enforced by the Court of Appeals, an involuntary petition had been filed against the company. Thereafter, the Court of Appeals entered its decree enforcing the Board's order. In due course, the Board filed a proof of claim for the backpay, which was disallowed by the referee. The District Court set aside the disallowance. 100 F.Supp. 489. The Court of Appeals affirmed, 194 F.2d 248, holding that the Board's order is a provable claim in bankruptcy, that the Board can liquidate the claim, and that it is entitled to priority as a debt owing to the United States under 64(a)(5) of the Act. The petition for certiorari was granted because of a conflict on the question of priority between that decision and *Labor Board v. Killoren,* 122 F.2d 609, decided by the Court of Appeals of the Eighth Circuit.

Page 344 U. S. 27

We think the Board is a creditor, as respects the backpay awards, within the meaning of the Bankruptcy Act. [Footnote 1] The Board is the public agent chosen by Congress to enforce the National Labor Relations Act. *Amalgamated Workers v. Edison Co.,* 309 U. S. 261 , 309 U. S. 269 . A backpay order is a reparation order designed to vindicate the public policy of the statute by making

the employees whole for losses suffered on account of an unfair labor practice. *Phelps Dodge Corp. v. Labor Board,* 313 U. S. 177 , 313 U. S. 197 . Congress has made the Board the only party entitled to enforce the Act. A backpay order is a command to pay an amount owed the Board as agent for the injured employees. The Board is therefore a claimant in the amount of the backpay.

The claim is provable as a debt founded upon an "implied" contract within the meaning of 63(a)(4) of the Bankruptcy Act. [Footnote 2] It is an indebtedness arising out of an obligation imposed by statute -- an incident fixed by law to the employer-mployee relationship. A liability based on *quasi* -ontract is one on an "implied" contract within the meaning of 63(a)(4) of the Bankruptcy Act. *See Brown v. O'Keefe,* 300 U. S. 598 , 300 U. S. 606 -607.

We do not, however, agree with the lower court that this claim, enforceable by the Board, is a debt due to the United States within the meaning of R.S. 3466, and therefore entitled to priority under 64(a)(5) of the Bankruptcy Act. It does not follow that, because the Board is an agency of the United States, any debt owed it is a debt owing the United States within the meaning of R.S. 3466. The priority granted by that statute

Page 344 U. S. 28

was designed "to secure an adequate public revenue to sustain the public burthens and discharge the public debts." *See United States v. State Bank,* 6 Pet. 29, 31 U. S. 35 . There is no function here of assuring the public revenue. The beneficiaries of the claims are private persons, as was the receiver in *American Surety Co. v. Akron Savings Bank,* 212 U.S. 557.

It is true that *Bramwell v. United States Fidelity & Guaranty Co.,* 269 U. S. 483 , extended the priority to a claim of the United States for Indian moneys. But that case rests on the status of the Indians as wards of the United States, *see Bowling v. United States,* 233 U. S. 528 , and the continuing responsibility which it has for the protection of their interests. *See United States v. Rickert,* 188 U. S. 432 , 188 U. S. 444 ; *Board of Commissioners v. Seber,* 318 U. S. 705 . We cannot

extend that reasoning so as to give priority to a claim which the United States is collecting for the benefit of a private party. *See American Surety Co. v. Akron Savings Bank, supra.* The beneficiaries here are not wards of the federal government; they are wage claimants who were discriminated against by their employer. The Board has eliminated the discriminated by the backpay order, and enforcement of its order has been directed by the Court of Appeals. The full sanction of the National Labor Relations Act has therefore been placed behind the order. The Board argues that the interest of the United States in eradicating unfair labor practices is so great that the backpay order should be given the additional sanction of priority in payment. Whether that should be done is a legislative decision. The contest now is no longer between employees and management, but between various classes of creditors. The policy of the National Labor Relations Act is fully served by recognizing the claim for backpay as one to be paid from the estate. The question whether it should be paid in preference to other creditors is a question to be answered from

Page 344 U. S. 29

the Bankruptcy Act. When Congress came to claims for unpaid wages, it did not grant all of them priority. It limited the priority to $600 for each claimant, and even then only allowed it as respects wages earned within three months before the date of the commencement of the proceedings. 64(a)(2). We would depart from that policy if we granted the priority to one class of wage claimants irrespective of the amount of the claim or the time of its accrual. The theme of the Bankruptcy Act is "equality of distribution," *Sampsell v. Imperial Paper & Color Corp.,* 313 U. S. 215 , 313 U. S. 219 , and if one claimant is to be preferred over others, the purpose should be clear from the statute. We can find in the Bankruptcy Act no warrant for giving these backpay awards any different treatment than other wage claims enjoy.

The trustee claims that the liquidation of the backpay award should not have been referred to the Board. Section 10(c) of the National Labor Relations Act authorizes the Board, once an unfair labor practice has been found, to require, *inter alia,* the person who committed it to

"take such affirmative action, including reinstatement of employees with or without backpay, as will effectuate the policies of this Act."

The fixing of the backpay is one of the functions confided solely to the Board. At the time an order of the Board is enforced, the amount of backpay is often not computed. Once an enforcement order issues, the Board must work out the details of the backpay that is due and the reinstatement. of employees that has been directed. This may be done by negotiation, or it may have to be done in a proceeding before the Board. The computation of the amount due may not be a simple matter. It may require, in addition to the projection of earnings which the employee would have enjoyed had he not been discharged and the computation of actual interim earnings, the determination whether the employee willfully incurred

Page 344 U. S. 30

losses, whether the backpay period should be terminated because of offers of reinstatement or the withdrawal of the employee from the labor market, whether the employee received equivalent employment, and the like. *See Phelps Dodge Corp. v. Labor Board, supra,* at 313 U. S. 190 *et seq.* Congress made the relation of remedy to policy an administrative matter, subject to limited judicial review, and chose the Board as its agent for the purpose.

The bankruptcy court normally supervises the liquidation of claims. *See Gardner v. New Jersey,* 329 U. S. 565 , 329 U. S. 573 . But the rule is not inexorable. A sound discretion may indicate that a particular controversy should be remitted to another tribunal for litigation. *See Thompson v. Magnolia Petroleum Co.,* 309 U. S. 478 , 309 U. S. 483 . And where the matter in controversy has been entrusted by Congress to an administrative agency, the bankruptcy court normally should stay its hand pending an administrative decision. That was our ruling in *Smith v. Hoboken R. Co.,* 328 U. S. 123 , and *Thompson v. Texas Mexican R. Co.,* 328 U. S. 134 , where we directed the reorganization court to await administrative rulings by the Interstate Commerce Commission before adjudicating the controversies before it. Like considerations are relevant here. I t is the Board, not the referee in bankruptcy nor the court, that has been entrusted by Congress with

authority to determine what measures will remedy the unfair labor practices. We think wise administration therefore demands that the bankruptcy court accommodate itself to the administrative process and refer to the Board the liquidation of the claim, giving the Board a reasonable time for its administrative determination.

In summary, we agree with the Court of Appeals that the claim was provable by the Board, and that the computation of the amount of the award was properly referred to the Board. But since we disagree with the ruling

Page 344 U. S. 31

on the priority of the claim, we reverse the judgment and remand the cause for proceedings in conformity with this opinion.

It is so ordered.

[Footnote 1]

"'Creditor' shall include anyone who owns a debt, demand, or claim provable in bankruptcy, and may include his duly authorized agent, attorney, or proxy."

11 U.S.C. 1(11).

[Footnote 2]

"Debts of the bankrupt may be proved and allowed against his estate which are founded upon . . . (4) an open account, or a contract express or implied."

63(a)(4), 11 U.S.C. 103(a)(4).

MR. JUSTICE JACKSON, with whom MR. JUSTICE BLACK joins, dissenting.

I think we should affirm the judgment below. I agree that the claim is one which can be proved in bankruptcy by the United States. The same reasoning which enables the Government to assert the claim would seem to enable it to assert the priority.

The claims which the United States asserts herein are something more than merely private indebtedness. The debtor's liability, enforceable only by the Government, is one of the most important sanctions to effectuate the policy of the National Labor Relations Act. That is one, at least, of the reasons why Congress did not see fit to leave prosecution of these usually small claims to scattered and often impecunious individual wage earners in a multiplicity of actions.

I see nothing in the policy of the Bankruptcy Act which precludes these claims, allowed in the Government's right and in its name, from sharing in the Government's general priority. Title 11, 104(a), sets up five levels of priority: first is administration expenses; second, wages not to exceed $600 to each claimant which have been earned within three months before commencement of bankruptcy proceedings; third, certain costs and expenses not material here; fourth, taxes legally due and owing by the bankrupt to the United States, or any state or any subdivision thereof; fifth, debts owing to any person, including the United States, who under its laws is entitled to priority.

It can hardly be questioned that Labor Board awards constitute wages of their equivalent, but beneficiaries of

Page 344 U. S. 32

these awards rarely can comply with the three-onths time limitation for wage priority because of the lag occasioned by Labor Board proceedings to establish the unlawfulness of their discharge by the employer. If they could do so, their claims would doubtless take the second priority, and be paid in preference to everything except administration expenses.

The judgment below denies these claims second priority, but admits them to the fifth class. Ahead of them, in the fourth class, are all taxes owing to the United States and to any state or subdivision, and this obviously is the priority intended to protect the federal revenues. Only after all revenue requirements are thus satisfied does the judgment below allow these claims to be paid. The Bankruptcy Act in this fifth category certainly contemplates a class of Government claims not arising out

of taxation. It does not seem to me inappropriate to consider the relation of the Government to the wronged laborer established by the Labor Relations Act as analogous to the Government's wardship toward Indians, found to warrant invocation of its priority in *Bramwell v. United States Fidelity & Guaranty Co.,* 269 U. S. 483 , The slogan "equality of distribution" can have little meaning when we are considering a section of a statute designed to establish inequality by a series of priorities. To protect the bankrupt's estate against inequalities equalities caused by the unlawful preferences attempted by the bankrupt is one thing; to invoke such a "theme" to level out priorities created by statute is another.

While the legislation is not as complete or clear as one would like, supplying the rule for conflicts unanticipated by Congress is a large part of our work, and I think the courts below have arrived at a practical solution of this question that accomplishes the purposes both of the Bankruptcy Act and the National Labor Relations Act. I would therefore affirm.

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