

A K. C. P. EMPLOYEES' ASSOCIATION, MADRAS
v.
MANAGEMENT OF K. C. P. LTD., MADRAS

January 24, 1978

[V. R. KRISHNA IYER AND JASWANT SINGH, JJ.]

B *Payment of Bonus Act (Act 21), 1965, s. 3, proviso to—Applicability of.*

Management-respondent is a public limited company carrying on three business adventures viz., manufacture of sugar, of cement and of heavy engineering machinery, at three different places. In respect of the workers of the engineering unit known as Central Workshops and which was financially ill, the management demurred the payment of bonus under the Act for the years 1964-65 and 1965-66 on the ground that the central workshop was a separate undertaking to which the proviso to Section 3 applied and consequently the claim for bonus on the basis of a single establishment within the meaning of the main s. 3 was untenable. The Labour Tribunal, however, upheld the claim of the workmen for both the years. When the said two awards were challenged by a writ petition, a single Judge of Madras High Court upheld the award for 1964-65. In further appeal by the management, the Division Bench set aside both the awards for 1964-65 and 1965-66 and directed the Tribunal to correct certain errors.

D Dismissing the appeals by special leave with directions for expediting and completing the *lis* within three months, the Court

HELD : 1. In Industrial law, interpreted and applied in the perspective of Part IV of the Constitution, the benefit of reasonable doubt on law and facts, if there be such doubt, must go to the weaker section, labour. [610 B-C]

E 2. In the instant case : (a) Proviso to s. 3 is attracted. Separate balance sheet and profit and loss accounts have been prepared and maintained in the past and during the relevant years of accounting also and (b) The High Court is right in directing the Tribunal to re-enquire, rectify the balance sheets and profit and loss accounts for the years in question taking due note of the requirements of the Act. [609 G-H, 610 A]

Alloy Steel Project v. The Workmen, [1971] 3 SCR 620 (ratio inapplicable)

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2142-2143 of 1970.

F Appeal from the Judgment and Order dated 3-9-1970 of the Madras High Court in Writ Appeals Nos. 350/68 and 76 of 1969.

M. K. Ramamurthi, M. P. Dhar and Vineet Kumar for the Appellant.

V. M. Tarkunde and Naunit Lal for Respondent No. 1.

B. P. Singh for Respondent No. 2.

G For Respondent No. 3 in CA 2142 and RR 3-6 in C.A. 2143/70 *ex-parte*.

The Judgment of the Court was delivered by

H KRISHNA IYER, J.—Affirming judgments need not speak elaborately, and so, in these two appeals where we do not disagree with the High Court, only a brief statement of reasons is called for.

The subject matter is a bonus dispute between the management-respondent and the workmen union revolving round the applicability

of the proviso to Section 3 of the Payment of Bonus Act, 1965 (hereinafter referred to as the Act) for the years 1964-65 and 1965-66. A thumbnail sketch of the facts :

The K. C. P. Limited, a public limited company, carries on three business adventures, viz., manufacture of sugar, of cement and of heavy engineering machinery. The concerned factories are in three different places in South India and employ workmen on different terms in three different units. We are directly concerned with the engineering unit known as the Central Workshops run at Tiruvottiyur, Madras. When the Payment of Bonus Act, 1965 came into force the workmen of this unit, which was financially faring ill unlike the other two sister units, demanded bonus on the footing that the three different undertakings must be treated as one composite establishment and on the basis of the overall profits, bonus must be reckoned as provided in the Act. The respondent demurred on the ground that the Central workshop was a separate undertaking to which the proviso to Section 3 applied and consequently the claim for bonus on the basis of a single establishment was untenably over-ambitious. Although the concerned unit was perhaps a losing proposition for the relevant years, (we do not know for certain) the Tribunal upheld the claim of the workmen for both the years, but the two awards were challenged, by Writ Petition, in the High Court. The award relating to 1964-65 was upheld by a Single Judge of the High Court who took the view that since all the three units, though divergent and located in different places, were owned by the same company and, therefore, without more, were covered by the main part of Section 3 and the proviso stood repelled. Two other questions, which had engaged the attention of the Tribunal, were scantily dealt with, the findings, if one may call them so, being adverse to the workmen. The management duly carried an appeal before a Division Bench of that Court which also called up and heard the Writ Petition against the award relating to the year 1965-66. Both the awards were set aside, the holdings on the substantial points being adverse to the workmen. However, certain follow-up inquiry had to be done by the Tribunal to correct errors, for which limited purpose there was a direction by the High Court. The matter stood at that stage and the two appeals in this Court are aimed against the decision of the Division Bench of the High Court.

The first point that appealed to the learned Single Judge, but failed before the Division Bench, has admittedly no merit in the light of this Court's direct ruling on the point.

The second point urged by Shri M. K. Ramamurthy that the Central Workshop has had no 'separate, viable balance-sheet and profit and loss accounts in respect of that undertaking, and that such is the finding of fact by the Tribunal, does not appeal to us. Nor is there life in the third limb of this argument that the respondent has failed to show that the Workshop has not been treated as part of the common establishment for the purpose of computation of bonus. We agree with the appellate judgment that the proviso is attracted. Separate balance-sheet and profit and loss accounts have been prepared and maintained in the past and during the relevant years of accounting also, although

- A** there is much force in the contention that they have not been properly maintained. Some items which may help enhance the bonus have, perhaps, been omitted and the High Court is right in directing the Tribunal to re-enquire, rectify the balance-sheets and profit and loss accounts for the years in question taking due note of the requirements of the Act as mentioned in the judgment of the Division Bench vis-a-vis Central Workshop. We are in respectful agreement with the decision in *Alloy Steel Project v. The Workmen*⁽¹⁾ but do not regard the ratio of that case as applicable to the present case on the facts.
- B**

- C** In Industrial Law, interpreted and applied in the perspective of Part IV of the Constitution, the benefit of reasonable doubt on law and facts, if there be such doubt, must go to the weaker section, labour. The Tribunal will dispose of the case making this compassionate approach but without over-stepping the proved facts, correct the balance-sheets and profit and loss accounts of the Central Workshop to the extent justified by the Act and the evidence and finish the *lis* within three months of receipt of this order. The appeals are dismissed. No costs.

S.R.

Appeals dismissed.

⁽¹⁾ [1971] (3) S.C.R. 629.