

(2009) 02 AHC CK 0025

Allahabad High Court

Case No: None

U.P. State Bridge Corporation
Ltd.

APPELLANT

Vs

Prescribed Authority, Labour
Court and Another

RESPONDENT

Date of Decision: Feb. 10, 2009

Acts Referred:

- Uttar Pradesh Industrial Disputes Act, 1947 - Section 6A, 6C

Citation: (2009) 2 AWC 1698 : (2009) 123 FLR 294 : (2009) 121 FLR 436

Hon'ble Judges: Tarun Agarwala, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Tarun Agarwala, J.

Heard the learned Counsel for the petitioner.

2. The petitioner has filed the present writ petition praying for a writ of mandamus declaring that the award dated 16.3.99 passed by the labour court, Varanasi in Adjudication Case No. 87 of 1998 which was published by the State Government on 5.8.99 be rendered unenforceable. The submission raised by the learned Counsel for the petitioner is, that in view of the provision of Section 6C of the U.P. Industrial Disputes Act, the "award remains in operation only for a period of one year from the date of its publication and after the expiry of one year, the said award could not be enforced: The learned Counsel for the petitioner consequently submitted that a writ of mandamus should be issued holding that the award passed by the labour court in the year 1999 is not enforceable in law.

3. In my opinion, the submission raised by the learned Counsel for the petitioner is patently misconceived and is bereft of merit. For facility, the provisions of Sections 6A and 6C of the U.P. Industrial Disputes Act, 1947 which are relevant to the issue,

are quoted hereunder:

6A. Commencement of the award.-(1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication u/s 6:

Provided that if the State Government is of the opinion that it will be in expedient [on public grounds affecting national or State economy or social justice] to give effect to the whole or any part of the award, the State Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days:

Provided further that an arbitration award shall not become enforceable where the State Government after such enquiry as it considers necessary, is satisfied that the same has been given or obtained through collusion, fraud or misrepresentation.

(2) Where any declaration has been made in relation to an award under the first proviso to Sub-section (1), the State Government may within ninety days from the date of publication of the award u/s 6, make an order rejecting or modifying the award, and shall on the first available opportunity lay the award together with a copy of the order before the Legislature of the State.

(3) Where any award as rejected or modified by an order made under Sub-section (2) is laid before the Legislature of the State, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid and where no order under Sub-section (1) is made in pursuance of a declaration under the first proviso to Sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in Sub-section (2).

(4) Subject to the provisions of Sub-sections (1) and (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is specified, it shall come into operation on the date when the award becomes enforceable under Sub-section (1) or Sub-section (3) as the case may be.

6C. Award of Labour Court or Tribunal or arbitration and its operation.-An award shall in the first instance remain in operation for a period of one year or such shorter period as may be specified therein:

Provided that the State Government may extend the period of operation of an award from time to time, if it thinks fit:

Provided further that where the State Government whether of its own motion or on the application of any party bound by the award, considers that since the award was made there has been a material change in the circumstances on which it was based, the State Government may, after such enquiry as it may think fit, shorten the period of operation of the award.

4. The provision of Section 6A of the Act indicates that an award shall become enforceable after the expiry of thirty days from the date of its publication. Section 6C of the Act indicates that the award shall remain in operation for a period of one year or for such a shorter period as specified therein.

5. In the present case, the award was passed on 16.3.99 and was published on 5.8.99. Since no period was prescribed in the award, consequently Section 6C of the Act comes into play and the award remains enforceable for a period of one year, i.e., till 4.8.2000.

6. The provision of Section 6C of the Act provides a statutory period on the life of an award. After the expiry of this period, in my opinion, the award does not cease to be effective and in fact, continues to remain binding on the parties. Even if the award has ceased to be in operation, it will continue to have its effect as a contract between the parties that has been made by an industrial adjudication in place of the old contract as held by the Supreme Court in *South Indian Bank Ltd. v. A.R. Chacko* 1964 (I) LLJ 90. In other words, even though, the period of operation of the award elapses, the obligation flowing from the award continues to govern the relations between the parties till it is altered by another contract. The obligations created by an award can only be altered by a fresh adjudication or by a fresh contract and till such time as the aforesaid two happenings occur, the award continues to remain binding upon the parties in spite of the fact that the award becomes unenforceable after the expiry of one year.

In view of the aforesaid, the Court finds no merit in the writ petition and is dismissed summarily.