

(1957) 05 AHC CK 0010

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 1496 of 1953

The Upper Doab Sugar Mills Ltd.

APPELLANT

Vs

The State of Uttar Pradesh and
Others

RESPONDENT

Date of Decision: May 6, 1957

Acts Referred:

- Constitution of India, 1950 - Article 226
- Industrial Disputes Act, 1947 - Section 10, 2, 2(1)

Citation: AIR 1957 All 643 : (1957) 2 LLJ 652

Hon'ble Judges: Mehrotra, J; Chaturvedi, J

Bench: Division Bench

Advocate: J. Swarup, for the Appellant; S.N. Devidi, for the Respondent

Final Decision: Dismissed

Judgement

Mehrotra, J.

This is a petition by the Upper Doab Sugar Mills, Ltd., Shamli, District Muzaffarnagar which carries on the manufacture of Sugar at Shamli in District Muzaffarnagar and it is a company registered under the Indian Companies Act. The Opposite Party No. 2 Shri R. D. Soti was appointed on the 7th November, 1951 as Personal Assistant to the Manager of the petitioner Company. In that capacity he had to perform many duties which were in the nature of a confidential and supervisory work. Part of the duty was administrative and part of it executive.

Sometime in May, 1954 the Company decided to abolish the post of Personal Assistant to the Manager. The petitioner applied for permission to dispense with the services of Sri Soti and pending the grant of the permission, the petitioner transferred the services of Sri Soti to the subsidised concern, namely, the Shamli Distillery, and Chemical Works, Shamli. The Additional Regional Conciliation Officer after detailed hearing accorded permission to retrench Sri Soti by an order dated

the 7th of February, 1956. Sri Soti was thereafter retrenched with effect from the 14th of February, 1956.

The case of Sri Soti was taken up by the Chini Mills Mazdoor Union, Shamli, opposite party No. 3 in this petition. On the 7th June, 1956, the Government of U. P. issued an order referring the following issue for adjudication:

"Whether the employers have wrongfully and unjustifiably terminated the services of Sri R. D. Soti? If so, to what relief is he entitled?"

22nd of June, 1956 was the date fixed for filing of the written statement and the management filed the same on the 23rd of June, 1956. The present petition has been filed on the 26th of July, 1956 for the following reliefs :

A writ of certiorari be issued quashing the order of the State Government dated the 7th June, 1956 and also a writ of prohibition directing the Adjudicator not to proceed with the adjudication till further orders, or such other writ, order or direction as this Hon'ble Court may on the circumstances of the case consider just and proper.

2. The petition is based on two grounds. Firstly it was urged by the petitioner that as the Sugar Industry is a controlled industry, the reference of disputes in connection with that industry can be made only by the Central Government and thus the U. P. Government had no right or jurisdiction to refer such industrial dispute to the Adjudicator. Secondly it was contended that as Sri R. D. Soti is not a workman within the meaning of the Industrial Disputes Act, 1947 any dispute between him and the petitioner is not an industrial dispute.

3. Notices were issued to the opposite parties and a counter affidavit has been filed in which it is disputed by the State that the opposite party No. 4 was not a workman. it is urged that the dispute could be referred to an Adjudicator by the State Government and that the opposite party was a workman and the dispute was an industrial dispute.

So far as the second point raised by the petitioner is concerned, it is enough to point out that the petitioner itself applied under Clause 29 of the Government Order No. 464 dated the 14th July, 1954 for permission to retrench Sri R. D. Soti and that under that order if a concern during the pendency of any dispute wishes to retrench any workman it has to apply for permission to the proper authorities.

It is, therefore, not now open to the petitioner to take up the position that Sri Soti was not a workman and therefore there is no industrial dispute which could be referred to an Adjudicator. We are not inclined to grant any relief to the petitioner under Article 226 of the Constitution in these circumstances.

4. Regarding the first point urged by the petitioner it is necessary to refer to certain provisions of the various Acts. Section 2 of the U. P. Industrial Disputes Act provides as follows :

"In this Act the expressions "employer" "industrial disputes", "industry", "lock out", "strike", and "workman", shall have the meanings respectively assigned to them in Section 2 of the Industrial Disputes Act, 1947 subject always to the modification that "industry" shall be construed to include the performance of its functions, as the case may be, by a local authority, or a "public utility service" and subject to this modification also that "industrial disputes" shall be construed not to include an industrial dispute concerning any industry specified in Sub-clause (1) of Clause (a) of Section 2 of the Industrial Disputes Act, 1947."

Section 2 of the Industrial Disputes Act (Central); provides as follows :

"In this Act unless there is anything repugnant in the subject or context :

(a) "appropriate Government" means;

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government or by a railway company operating a Federal Railway or in relation to an industrial dispute concerning a banking or an insurance company, a mine or an oilfield or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the Provincial Government."

The effect of these two sections is that the industries which are specified in Sub-clause (i) of Clause (a) of Section 2 of the Industrial Disputes Act (Central) are excluded from the definition of "industrial disputes" in the U. P. Industrial Disputes Act.

5. The Central Industrial Disputes Act, 1947 was amended by the Industries (Development and Regulations) Act, 1951. The amended section reads as follows :

"In Section 2 of the Industrial Disputes Act 1947, in Sub-clause (i) of Clause (a) after the words "by railway company" the words "or concerning any such controlled industry as may be specified in this behalf by the Central Government shall be inserted."

The amended section will thus read as follows :

"Appropriate Government" means:

(i) in relation to any industrial dispute concerning any industry carried by or under the authority of the Central Government or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning a banking or an insurance company, a mine or an oilfield or a major port--the Central Government."

By the Industries (Development and Regulations) Act, of 1951 Section 2 was further amended and Clause (ee) after Clause (e) has been added as follows;

"A controlled industry means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest."

6. The contention raised by the counsel for the petitioner in the present case was that as sugar is a controlled industry under the provisions of the Industries (Development and Regulations) Act of 1951, in view of Section 2 of the State Industrial Disputes Act, the words "industrial disputes" will not include any industrial dispute concerning a sugarcane industry as it will be deemed to be specified in Sub-clause (i) of Clause (a) of Section 2 of the Central Act. In our opinion there is no force in this contention. Sub-section (2) of the Industries (Development and Regulations) Act of 1951 provides that it is hereby declared that it is expedient in the public interest that the union should take under its control the industries specified in the first schedule.

In the first schedule sugar has been specified as item No. 8. Thus it is clear that sugar is a controlled industry within the meaning of the amended section, taut the amended definition of the appropriate Government does not include all the controlled industries. The Central Government will be the appropriate Government only in respect of such controlled industries as may be specified in this behalf -by the Central Government.

7. In our opinion, on a plain reading of the amended Industrial Disputes Act (Central), the Central Government will be the appropriate Government only in respect of those controlled industries which may be specified in this behalf and the controlled industries which are not thus specified cannot be regarded as specified in Section 2 Clause (a) (i) of the Industrial Disputes Act (Central) so as to be excluded from the definition of industrial disputes in the U. P. Act.

Reference in this connection may be made to the case of Firebricks & Potteries, Ltd. Yesvanthpur v. Workers" Union, reported in (S) AIR 1956 karn 7 (A).

8. No other point was urged by the counsel for the petitioner.

9. There is, therefore, no force in this petition and it is accordingly dismissed with costs.