

SADHU RAM

v.

DELHI TRANSPORT CORPORATION

August 25, 1983

[O. CHINNAPPA REDDY, A. P. SEN AND E. S. VENKATARAMIAH, JJ.]

Constitution of India—Art. 226—Exercise of Jurisdiction by High Court—Scope of.

The services of the appellant-workman were terminated by the Management of the respondent. On a report from the Conciliation Officer the Government referred the dispute to the Labour Court. The Management contended that the workman had not raised any demand with the Management and that there was, therefore, no industrial dispute. The Labour Court found as a fact that the Union had raised a valid demand with the Management and that the termination of services of the workman was illegal and *mala fide*. The Management invoked the jurisdiction of the High Court under Art. 226. A Single Judge of the High Court quashed the Award of the Labour Court on the finding that no demand had been raised and there was no industrial dispute which could be properly referred by the Government for adjudication. The judgment of the Single Judge was affirmed by the Division Bench.

Allowing the appeal,

HELD : The High Court was not right in interfering with the Award of the Labour Court under Art. 226 on a mere technicality, [728 E]

The jurisdiction under Art. 226 of the Constitution is truly wide but, for that very reason, it has to be exercised with great circumspection. It is not for the High Court to constitute itself into an appellate court over Tribunals constituted under special legislations to resolve disputes of a kind qualitatively different from ordinary civil disputes and to readjudicate upon questions of fact decided by those Tribunals. That the questions decided pertain to jurisdictional facts does not entitle the High Court to interfere with the findings on jurisdictional facts which the Tribunal is well competent to decide. [727 D-F]

In the instant case there was a conciliation proceeding, the conciliation had failed and the Conciliation Officer had so reported to the Government. The Government was justified in thinking that there was an industrial dispute and referring it to the Labour Court. The High Court's discussion on what was an industrial dispute and what was a jurisdictional fact was an entirely unnecessary exercise. [727 G-F; 728 A-B]

Sindhu Resettlement Corporation Ltd. v. The Industrial Tribunal of Gujarat, [1968] 1 S.C.R. 515, explained and distinguished.

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6346 of 1983.

Appeal by Special leave from the Judgment and Order dated the 18th January, 1980 of the Delhi High Court in L.P.A. No. 62 of 1973.

B *D.N. Vohra, Anil Kumar Gupta and Miss Kailash Mehta* for the Appellant.

S.N. Bhandari and Arunesevar Gupta for the Respondent.

C The Order of the Court was delivered by :

CHINNAPPA REDDY, J. Special leave granted.

D Sadhu Ram was a probationer Bus Conductor whose services were terminated on 7th September, 1967 by the respondent, the Delhi Transport Corporation. On the failure of conciliation proceedings, the Conciliation Officer, Delhi submitted his report to the Delhi Administration under s. 12 (5) of the Industrial Disputes Act, whereupon the Delhi Administration referred the following dispute to the Presiding Officer, Labour Court, Delhi for adjudication : "Whether the termination of service, of Shri Sadhu Ram, conductor is illegal and unjustified, and if so what directions are necessary in this respect". The Union on behalf of the workman and the management appeared before the Presiding Officer, Labour Court. On behalf of the management, a contention was raised that the workman had not raised any demand with the management and that there was therefore, no industrial dispute. The reference was accordingly claimed to be incompetent. The Labour Court overruled the contention, holding as a fact that the Union had raised a valid demand with the management. On merits, the Labour Court gave the following finding : "I, therefore, hold that the termination order in respect of this workman is illegal and mala fide and that amounts to colourable exercise of power." Consequently, the management was directed to reinstate the workman with effect from 8th September, 1967 with the full back wages and benefits. The management invoked the jurisdiction of the High Court of Delhi under Art. 226 of the Constitution questioning the award of the Labour Court. The High Court went into a learned discussion on what was an Industrial Dispute and what was a jurisdictional fact, a discussion

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which in our opinion was an entirely unnecessary exercise. In launching into a discussion on these questions needlessly, the High Court appeared to forget the basic fact that the Labour Court had given two categorical findings : (i) that the Union had raised a demand with the management and (ii) that the termination of the services of the workman was a mala fide and colourable exercise of power. Delving into the evidence as if it was an appellate Court, and reappreciating the evidence, the High Court thought that one of the documents upon which the Labour Court had relied was a suspicious document; and the High Court went on to find that no demand had been raised and there was no Industrial Dispute which could be properly referred by the Government for adjudication. On those findings a learned single judge of the High Court quashed the Award of the Presiding Officer of the Labour Court. The decision of the learned single judge was affirmed by a Division Bench. The workman has come before us under Art. 136 of the Constitution.

We are afraid the High Court misdirected itself. The jurisdiction under Art. 226 of the Constitution is truly wide but for that very reason, it has to be exercised with great circumspection. It is not for the High Court to constitute itself into an appellate court over Tribunals constituted under special legislations to resolve disputes of a kind qualitatively different from ordinary civil disputes and to readjudicate upon questions of fact decided by those Tribunals. That the questions decided pertain to jurisdictional facts does not entitle the High Court to interfere with the findings on jurisdictional facts which the Tribunal is well competent to decide. Where the circumstances indicate that the Tribunal has snatched at jurisdiction, the High Court may be justified in interfering. But where the Tribunal gets jurisdiction only if a reference is made and it is therefore impossible ever to say that the Tribunal has clutched at jurisdiction, we do not think that it was proper for the High Court to substitute its judgment for that of the Labour Court and hold that the workman had raised no demand with the management. There was a conciliation proceeding, the conciliation had failed and the Conciliation Officer had so reported to the Government. The Government was justified in thinking that there was an industrial dispute and referring it to the Labour Court.

The High Court appeared to think that the decision of this Court in the *Sindhu Resettlement Corporation Ltd. v. The Industrial*

A *Tribunal of Gujarat*⁽¹⁾ justified its conclusion that the failure of the conciliation proceedings and the report of the Conciliation Officer to the Government were not sufficient to sustain a finding that there was an industrial dispute. This was also what was urged by the learned counsel for the respondents. The High Court was in error in so thinking. In *Sindhu Resettlement Corporation Ltd. v. The Industrial Tribunal of Gujarat*⁽¹⁾, the question really was about the precise scope of the reference made by the Government for adjudication. Throughout it appeared that the only reference that the Government could have made related to the payment of retrenchment compensation which alone was the subject matter of dispute between the parties. The conciliation which failed had also concerned itself with the question of payment of retrenchment compensation and in their claims before the management, the workmen had requested for payment of retrenchment compensation and raised no dispute regarding reinstatement. It was in those circumstances that the court held that there was no industrial dispute regarding reinstatement. We do not see how *Sindhu Resettlement Corporation Ltd. v. The Industrial Tribunal of Gujarat* can be of any assistance to the respondents.

B Nor do we think that it was right for the High Court to interfere with the award of a Labour Court under Art. 226 on a mere technicality. Article 226 is a device to secure and advance justice and not otherwise. In the result, we allow the appeal, set aside the judgment of the High Court and restore the award of the Presiding Officer, Labour Court.

C H.S.K.

Appeal allowed.

(1) [1968] 1 S.C.R. 515.