

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 6645 of 2011

Date : 17.8.2016

Between :

The Management of Novapan Industries Ltd
Patancheruvu, Medak District
Rep by Sri S K Mishra S/o late M S Mishra
General Manager

Petitioner

And

Labour Court III, Hyderabad
Chandravihar Building,
Mozamjahi market street, Hyderabad and another

Respondents

The Court made the following:

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ORAL ORDER:

This writ petition is filed by the management of Novapan Industries Limited, challenging the award of the labour Court in M.P. No. 26 of 2006 dated 29.11.2010. The second respondent/workman claiming to be a Security Guard sought for extension of production incentive with effect from February, 1990 to September, 1998. The claim was contested by the petitioner.

2. The primary contest was on the ground that Security Guard is not involved in production activity of the petitioner company, therefore he is not entitled to seek production incentive. Production incentive is available only to persons who actually involved in production activity and Security Guard cannot be classified as person involved in production activity. The said contention was rejected by the labour Court.

3. The Labour Court held that Security Guard comes within the category of essential workmen, therefore entitled to seek production incentive on par with others and denial of the same is illegal.

4. Sri Ravindranath, learned counsel for petitioner contended that production incentive is not available to Security Guard. According to him, reading of three memorandum of settlements on which heavy reliance was placed, would show that the production incentive is available to persons involved in the production activity and therefore no other person can claim it. By referring to Clause 15 of the Memorandum of settlement dated 12.5.1992 he submits that this Clause makes it clear that such incentive is available only when persons are involved in production activity of the petitioner company. He would therefore submit that contrary to the clause in the memorandum of settlement directions are issued.

4.1 He further submits that the Labour Court ought to have rejected the claim petition as not maintainable. By referring to provision in Section 36-A of the Industrial Disputes Act, 1947, he submits that if there is any difficulty in understanding the clauses of settlement, Government alone should refer the matter for settlement to Labour Court, whereas, in the instant case, the application directly filed by workman was entertained by the Labour Court and on that ground alone this writ petition is liable to be allowed.

5. Learned counsel representing the workman submits that the memorandum of settlement does not restrict grant of production incentive only

to persons actually involved in production activity. All the employees associated with the company are required to put in their effort in ensuring better production and therefore production incentive cannot be confined to only those persons who are actually involved in production activity. Even the Security Guard contributes to the better production activity of the company. Therefore while entering into settlement, the scope of applicability of the production incentive was not confined only to the persons who are actually involved but also extended to other categories such as maintenance and services. He would therefore submit that directions issued by the Labour Court are legal.

6. The issue raised in the writ petition deals with scope of Memorandum of settlements arrived at between the management and workers. Reading of opening portion of the settlement and clause 1 which deals with the applicability and scope, would show that the understanding of the management and employees union was clear that workmen in job groups 1 to 4 who are involved in production/maintenance/services are covered for grant of production incentive. Thus, this clause makes it clear that production incentive is not confined only to the workmen who are actually involved in production activity. Reading of clause 1.1 i.e., scope of and application of the production incentive would show that it extended to cover exhaustively various categories of employees. It is appropriate to note that clause specifically deals with such of those categories of workmen who are not entitled to production incentive i.e., probationers, temporary workmen, casual labour, trainees and apprentices. This would imply exclusion is specifically meant only to the categories mentioned therein. The management could have excluded security personnel, if they so intended. Thus, it has to be assumed that memorandum of settlement intend to cover all categories except those expressly excluded. More over, a beneficial provision must receive liberal construction and exclusion must be clear and specific.

7. There is no merit in the contention of the learned counsel for petitioner in relying on clause 15. A reading of clause 15 would show that earlier production incentive was confined to final product of the company and was not extended to any seconds. By this clause of memorandum of settlement it was also extended to seconds but with restricted benefit.

8. Section 36-A of the I D Act, is attracted only when doubt is

entertained by the Government on application of settlement arrived and in such case, Government can refer the matter for resolution by the Labour Court. In the instant case, provision of Section 36-A is not attracted as no such doubt was entertained by the Government nor the matter was being considered by the Government. It is a claim made by workman seeking grant of production incentive in accordance with the settlement arrived at between the management and workmen.

9. Having regard to the same, I do not see any error committed by Labour Court, much less patent error, directing payment of production incentive to the workman, warranting interference. The writ petition is accordingly dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

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