10 24.03.2022
RP Ct. No. 16
AN

MAT 103 of 2022
With

IA No. CAN 1 of 2022

Ludlow Jute and Specialties Limited
vs.
State of West Bengal & ors.

Mr. Arunava Ghosh, learned Senior Counsel
Mr. Partha Bhanja Chowdhury
Mr. S. N. Singh
Mr. Ravi Kumar Dubey
... for the appellant

Mr. Masum Ali Sardar
... for the respondent No. 3

Mr. Narayan Chandra Bhattacharya
Ms. Sujata Ghosh
... for the State

This intra court appeal at the instance of the appellant management is directed against the order dated 24.12.2021 passed in WPA 21635 of 2019 (Ludlow Jute and Specialties Limited vs. State of West Bengal & ors.). The appellant management challenged the Order No. 131 dated 17.09.2019 passed by the Third Industrial Tribunal rejecting an application filed by the appellant management invoking Rule 20E of the West Bengal Industrial Disputes Rules, 1958 (in short 'the Rules') seeking direction to summon the conciliation file from the appropriate authority.

The Industrial Tribunal took note of the factual position, more particularly, the direction issued in the earlier writ petitions and found that the attempt of the appellant management to seek for production of the conciliation file at the fag end of the proceedings was not tenable. Furthermore, the Industrial Tribunal noted that the witnesses of the workmen have been examined and cross-examined and evidence has been closed and on the side of the management two witnesses have been examined and at that stage the appellant management was not justified in filing the application to summon the conciliation file.

The learned Single Judge while considering the correctness of the order passed by the Industrial Tribunal agreed with the conclusion arrived at by the Industrial Tribunal and rejected the prayer sought for by the appellant management. Not stopping with that the learned writ court proceeded to make an observation that the conduct of the appellant was without proper motive and it was only to drag on the proceedings for more than 14 years and, hence, dismissed the writ petition imposing a cost of Rs. 5 lacs on the appellant management out of which 50% to be paid to the third respondent in the writ petition and 50% to be paid to the State Legal Services Authority.

After hearing learned counsel for the parties elaborately, we are of the view that the conclusion arrived at by the learned Single Judge confirming the order passed by the Industrial Tribunal does not call for any interference. Though it may be true that Rule 20E of the Rules empowers the Industrial Tribunal to summon any person either to give evidence or to produce documents or for both purposes at any stage of the proceedings, but whether such power is to be exercised in a given case has to be decided on its own facts. Undoubtedly, the order of reference was passed on 22.11.2005 by the Government of West Bengal referring two issues for adjudication before the Industrial Tribunal. The appellant management filed ten writ petitions challenging the order of reference on the ground that the Government ought to have framed a further issue along with two issues which were referred. The appellant management suggested that the issue whether the workmen have abandoned employment or refused to take engagement/employment ought to have been framed. This submission was accepted by the learned writ court and by a common order dated 07.02.2018 all the writ petitions were disposed of by directing the Industrial Tribunal to include a third issue as suggested by the appellant management. The writ petitions were pending from the year 2006 and were disposed of on 07.02.2018. However, during the pendency of the writ petitions, an order of stay was in operation.

Therefore, the question is whether the management can be said to have caused delay in respect of the period during which the writ petitions were pending from 2006 to 2018. It is the settled legal position that no person should be penalized for the fault of the Court. We are informed by the learned counsel for the either side that during the period between 2006 to 2018, the writ petitions were heard on several dates. Be that as it may, we are of the view that while computing the time taken for the litigation, the period from 2006 to 2018 needs to be excluded. If we apply this principle, then obviously the management cannot be stated to have purposely delayed the matter for 14 years. Nevertheless, the attempt of the management in filing an application under Rule 20E of the Rules at the fag end of the proceedings after evidence was concluded on either side lacks bona fide. That apart we substantiate this conclusion with the following reasons.

When the appellant management approached this Court in the year 2006 by filing the writ petitions, their grievance was that one more issue has to be referred for adjudication. There appears to have been no attempt to state before the learned writ court that apart from framing the third issue the conciliation file also should be summoned.

Therefore, we are of the clear view that the attempt made by the appellant management seeking to summon the conciliation file is belated attempt and cannot be entertained.

Having held that the period from 2.2.2006 to 7.2.2018 has to be excluded, we are of the view that exemplary cost need not be imposed in this case. However, considering the plight of the workmen who raised the industrial dispute in the year 2005 and in spite of the order of reference having been made by the Government in 2005, till date the finality has not been arrived at.

Therefore, we are of the view that a sum of money should be paid to the workmen in the nature of a compensation or solace to the workmen as they have been defending the litigation commenced by the appellant management since 2006. With regard to the direction issued by the learned Single Judge to pay part of the cost to the State Legal Services Authority, West Bengal is concerned, we are of the view that such direction is for a good cause. The State Legal Services Authority which has been constituted under the provisions of the Legal Services Authorities Act renders legal service to the under-privileged and also promotes various schemes which have been formulated by the National Legal Services Authority.

Therefore, the appellant management should be more ready and willing to contribute to the cost of the litigants who are unable to get legal advice owing to their financial or other conditions. As observed earlier, we are of the view that the amount of cost of Rs. 5 lacs appears to be excessive and, therefore, we reduce the cost payable to Rs.1,00,000/- and out of the said sum of Rs. 1,00,000/-, Rs. 50,000/- shall be paid to the third respondent and the remaining 50% shall be paid to the State Legal Services Authority, West Bengal.

This direction shall be complied with by the appellant within a period of four weeks from the date of server copy of this order.

In the result, the appeal is **partly allowed** by confirming the order passed by the Industrial Tribunal dated 17.09.2019 in Order No. 131 modifying the cost payable by the appellant. Since the dispute is of the year 2005, we direct the Third Industrial Tribunal to expeditiously dispose of and conclude the proceedings and pass an award preferably within a period of three months from the date of receipt of the server copy of this order.

We further make it clear that the appellant management as well as the respondent workmen shall cooperate with the Industrial Tribunal so as to conclude the matter within the time suggested by us hereinabove.

The application being CAN 1 of 2022 is also disposed of.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)