

09.08.2023
Sl. No.268(ML)
srm

W.P.A. No. 5957 of 2013
With
CAN 1 of 2013 (Old No.CAN 11560 of 2013)
M/s. Bally Jute Company Limited
Versus
The State of West Bengal & Ors.

Mr. Jayanta Dasgupta,
Mr. R. Guha Thakurta

...for the Petitioner.

Mr. Uddipan Banerjee

...for the Respondent No.3.

It is submitted on behalf of the petitioner/employer that pursuant to the notification dated February 2, 2012 the territorial jurisdiction for adjudication of the dispute between the petitioner and the private respondent No.3 was conferred to the 2nd Industrial Tribunal and not the 4th Industrial Tribunal. The said notification was issued by the Special Secretary, Labour Department, Government of West Bengal in exercise of the power conferred under Clause (c) sub-section (1B) of Section 10 of the Industrial Disputes Act, 1947 read with sub-section (2) of Section 2A of the 1947 Act.

Upon filing of the writ petition, a coordinate Bench of this Hon'ble Court *vide* order dated April 1, 2013 stayed all

proceedings before the learned Judge, 4th Industrial Tribunal, West Bengal in Case No.28 of 2011.

Before this Court CAN 1 of 2013 (Old No.CAN 11560 of 2013) was filed bringing on record an application made by the workman/petitioner before the Industrial Tribunal whereby the workman by a petition dated July 8, 2013, intimated that he did not intend to proceed with the case since the company/employer challenged the territorial jurisdiction of the Tribunal pursuant to the notification dated February 2, 2012 by filing a petition dated February 17, 2012.

The 4th Industrial Tribunal *vide* its order dated July 19, 2013 also recorded that the case no. 28 of 2011 was heard at length before the Tribunal. Despite the fact that the employer's application dated February 17, 2012 challenging the territorial jurisdiction was rejected by the 4th Industrial Tribunal by an order dated July 9, 2012, why the workman still made such application evidencing his intention not to proceed with his claim before the 4th Industrial Tribunal is beyond the comprehension of this Court. The present writ petition was filed challenging such order dated July 9, 2012. By an order dated April 1, 2013, a coordinate Bench of this Hon'ble Court stayed the proceedings before the Tribunal. Therefore, the petition dated July 8, 2013 was dismissed by the Tribunal. The

Industrial Dispute Case no. 28/11 is still pending adjudication before the 4th Industrial Tribunal.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the effective date of the notification dated February 2, 2012 was from the date of publication of the notification. Therefore, the territorial jurisdiction of the Industrial Tribunals as per the notification dated February 2, 2012 was only effective on and from February 2, 2012. Any application filed prior to that date could not be dismissed on the ground that the Tribunal lacked territorial jurisdiction as there was no specific bar to receive, try and entertain such application. The company/employer could not have raised any objection *vide* its petition dated February 17, 2012 in respect of the territorial jurisdiction of the Tribunal, filed before the effective date by the workman.

This Court finds no infirmity in the order dated July 9, 2012. The same is a well-reasoned order giving the workman benefit of a beneficial legislation. The action on the part of the employer has caused unnecessary harassment to the workman.

The learned Judge, 4th Industrial Tribunal is free to proceed with the reference made under the 1947 Act which is pending before it since November, 2011.

Accordingly, **WPA 5957 of 2013 is disposed of.**

Accordingly, **CAN 1 of 2013 (Old No.CAN 11560 of 2013)** is also **disposed of**.

The interim order passed on April 1, 2013 is also vacated.

Section 2A(2) of the 1947 Act came into force with effect from September 15, 2010. At that time there was no notification specifying the territorial jurisdiction of the Tribunals. How can a workman be deprived of the benefits of a beneficial legislation since the State Government did not earmark the territorial jurisdiction of the Tribunals prior to February 2012, is beyond the comprehension of this Court.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be handed over the parties on usual undertaking.

(Lapita Banerji, J.)