

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF SEPTEMBER, 2024

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

WRIT PETITION NO.18693 OF 2014 (L-RES)

BETWEEN:

CENTRAL SILK BOARD
BY ITS MEMBER SECRETARY
C.S.B. COMPLEX
BTM LAYOUT
MADIWALA
BENGALURU-560 068

...PETITIONER

(BY SRI. N.S. NARASIMHA SWAMY, ADVOCATE)

AND:

1 . THE CENTRAL SILK BOARD
EMPLOYEES UNION (R)
NO.121/A, 1ST MAIN ROAD
1ST CROSS, SHAKTHI GARDEN
MUDALA PALYA
BENGALURU-560 072
BY ITS SECRETARY

2 . UNION OF INDIA
MINISTRY OF TEXTILES
UDYOG BHAVAN
NEW DELHI-110 001
REPRESENTED BY ITS SECRETARY

...RESPONDENTS

(BY SRI. V.S. NAIK, ADVOCATE FOR C/R1;
V/O DATED 30.04.2014, R2 IS NOT A PROPER AND
NECESSARY PARTY FOR THIS PROCEEDING)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE AWARD OF CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT IN CR No.151/2007 DATED 01.04.2013 AS PER ANNEXURE-Q AND AS REFERRED BY THE CENTRAL GOVERNMENT AS PER ANNEXURE-P DATED 27.08.2010 BY ISSUE OF WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 14.08.2024 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This Writ Petition is filed by the Central Silk Board Management challenging the Award dated 01.04.2013 in C.R.No.151/2007 passed by the Central Government Industrial Tribunal-cum-Labour Court (hereinafter referred to as "CGIT" for short).

2. The Central Government exercising powers conferred under Section 2(a)(1)(d) read with Section 10 of the Industrial Disputes Act, 1947, referred the following question for adjudication of the CGIT:-

"Whether the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers is legal and justified? If yes, to what relief the workmen are entitled to?"

3. After considering the contentions advanced and the material placed on record, the CGIT issued Annexure 'Q' - award. The operative portion of which reads as follows:-

"The reference is allowed holding that the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers is legal and justified and that they are entitle to enhancement of their retirement age from 55 years to 60 years."

4. The learned counsel for the petitioner raises following contentions:-

- The dispute was raised by the Union Central Silk Board Employees Union. It is argued that since the Union is registered only under the State Government, not the Central Government, it fails to meet the requirement of Section 2(qq) of the Industrial Disputes Act. Thus, the

dispute is not maintainable, as affirmed by past judicial decisions, it is contended.

- The Central Silk Board is established under the Central Silk Board Act, 1948, Section 11 gives powers to the Central Government to control and modify the Board's actions. Section 13(2)(viii) speaks of framing rules for the approval of the budget and Section 13(2)(xiv) speaks of framing of rules for the staff. The retirement age of Time Scale Farm Workers (TSFW) was raised from 55 to 58 years as per a Central Government directive.
- The Central Government has the power to issue service conditions, including retirement age, through administrative instructions even if not explicitly covered by legislation. This was affirmed by the Apex Court in various judgments.
- The Central Silk Board does not have certified standing orders, meaning the model standing orders apply. These model orders set the retirement age at 58 years,

consistent with the Provident Funds and Miscellaneous Provisions Act.

- Courts should not interfere with policy decisions of the Government, especially in financial matters. The Central Government's decision to set the retirement age is within its legislative and executive powers.
- Employees of autonomous bodies, like the Central Silk Board, cannot claim the same benefits as Government employees, even if the Board adopts Government Service, Rules or receives Government funding. This principle was upheld by the Apex Court in several cases.
- The Supreme Court in a recent case on menstrual pain leave held that it is a policy matter for the Government, not the Courts, to decide.
- Casual labour and daily wagers, like TSW, cannot claim the same rights as Government employees, as their employment is not governed by regular appointment procedures or recruitment rules.

- Work-charged employees, such as TSWW, do not have permanent status and cannot claim service conditions equivalent to those of permanent Government employees.
- Even workers who have gained temporary status do not achieve permanent status unless selected through regular procedures.
- Courts cannot impose new obligations on the parties that go beyond the existing industrial law, as held by the Apex Court.
- Orders issued by the Central Government under its executive powers, like the one setting the retirement age, are binding. The labour court cannot override such decisions.
- The Central Government has been restructuring the Board by closing and merging units, reducing staff, and transferring activities to State Governments. This cost-saving effort makes it financially burdensome to increase the retirement age for farm workers.

- The increase in the retirement age would impose a significant financial burden on the Government, which has already been reducing staff and restructuring the Central Silk Board to cut costs.

5. The learned counsel for the petitioner, in support of his contentions, relied on the following decision:-

- **State of Tripura & Others v. Rina Purkayashta & Another** reported in **2023 LiveLaw (SC) 387**;

6. The learned counsel for the respondents submits that the CGIT passed an award on 01.04.2013 answering the points of dispute in favour of the Union and held that the Union is justified in demanding enhancement of retirement age from 55 years to 60 years and that the workmen are entitled for the said relief. Since, the Management has agreed for enhancement of age of retirement to 58 years, the only question which requires to be examined is with regard to enhancement of age of retirement up to 60 years.

7. It is submitted that, admittedly, the dispute is an industrial dispute as defined in Section 2(k) referred by the appropriate Government for industrial adjudication under

the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act" for short). The dispute is between the workmen represented by the first respondent - Union and the petitioner i.e., Management of Central Silk Board.

8. The contention of the petitioner was that the order dated 08.08.2012 vide Annexure-N, is statutory in nature under Section 13(2)(xiv) of the Central Silk Board Act, 1948 and, therefore, the CGIT has no power to pass any Award contrary to the said statutory provision. However, the petitioner-Management in paragraph No.2 of the Counter Statement has stated as under:

"The Casual Farm Workers/Time-Scale Farm Workers are not governed by the CSB Act & Rules but their wages and service conditions are governed by the Labour Laws/Guidelines framed by the Board from time to time."

9. It is submitted that Annexure-L Agreement is not a settlement either under Section 2(p) of the Act or a conciliation settlement or a settlement to be accepted as "settlement under the provisions of the Act" since the same has not been forwarded to the Labour Department as

required under the Act. Even otherwise, it is an agreement not on all India basis but between the Management of Central Sericultural Research and Training Institute Mysuru and the Workers Union. This is the agreement dated 01.08.1970. Assuming for the sake of argument that it is an agreement under the provisions of the Act, it is impermissible for the petitioner to contend that the terms of the said settlement are to be continued even after 54 years.

10. It is submitted that Annexure-N is only recommendatory in nature. Admittedly the petitioner-Management did not take any steps to make the Ministry of Textile/Central Government as a party to the dispute. The *lis* was between the Management and the Union which has been rightly held by this Hon'ble Court while granting an interim order on 20.04.2014.

11. As regards the contention urged by the petitioner-Management with regard to the policy of recruitment of staff which would obviously have serious financial impact and in this regard, reference is made to the judgment of the Apex

Court in ***Food Corporation of India and others v. Bhanu Lodh and others*** reported in ***AIR 2005 SC 2775***, is wholly misconceived. The Management did not place any material worth the name at the time of industrial adjudication and hence this ground is also liable to be rejected.

12. Further, the CGIT was correct in applying the principle of "Region-cum-Industry" as similar organizations under other Ministries had already enhanced the retirement age to 60 years. The demand for retirement age enhancement was justified based on the increased lifespan and parity with other organizations like the Indian Council of Agricultural Research (ICAR) and National Seeds Corporation Limited.

13. The learned counsel for the first respondent, in support of his contentions, relied on the following decisions:-

- **Western India Automobile v. The Industrial Tribunal**, reported in ***AIR 1949 SC 111***;
- **The Bharat Bank Ltd., Delhi v. Employees of the Bharat Bank Ltd.**, reported in ***AIR 1950 SC 188***;

- **Indian Overseas Bank v. I.O.B. Staff Workers' Union**, reported in **(2000) 4 SCC 245**; and
- **The Management of M/s. Grasim Industries Ltd. v. The General Secretary, Harihar Polyfibers and Others**, disposed of **on 05.07.2022** passed in **WA No.100250 of 2021 (L-RES)**.

14. Having considered the contentions advanced on either side, we are of the opinion that a challenge to adjudication by the CGIT is to be considered taking note of the accepted principles for considering challenges against the award by CGIT. The Industrial Disputes Act provides the adjudicatory mechanism for considering disputes between Managements and Workmen. Though the petitioner had raised the contention before the CGIT that the age of retirement of Time Scale Farm Workers is a matter of policy to be taken by the Central Government, the CGIT considering the reference found that the retirement age of permanent employees of the Management stood enhanced to 60 years. It was also found that in respect of similarly situated employees of similar Industries and Establishments as well, the age of retirement was 60 years.

15. The Industrial Disputes Act, 1947 is a self contained code providing for settlement of Disputes, principally between employees and workmen. When a dispute falls within the definition of an Industrial Dispute under Section 2(k) of the Act, the mechanism under the Act can be activated. A reading of Section 10 would indicate that essential pre-requisite for making a reference to the Courts or Tribunals is the existence or apprehension of an Industrial Dispute, in the opinion of the appropriate Government.

16. In the instant case, the appropriate Government is admittedly the Central Government. The Central Government, being satisfied as to the existence of an Industrial Dispute has thought it fit to refer the parties to the CGIT. In the said circumstances, and on an anxious consideration of the scheme of the Act and the Rules made there under, as well as Section 11 of the Central Silk Board Act, 1948, we are of the clear opinion that the grounds urged by the petitioner that the dispute could not have been adjudicated by the Tribunal are totally devoid of merits.

17. Section 11 of the Central Silk Board Act, 1948, only provides as follows:-

"11. Control by the Central Government:

(1) All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken, or order passed, by the Board.

(2) The records of the Board shall be open to inspection at all reasonable times by any officer authorized in this behalf by the Central Government."

18. Neither Section 11 nor the power in the Central Government to frame Rules under Section 13(2)(xiv) of the Central Silk Board Act, 1948, to regulate the working conditions of the staff which may be employed by the Board and the pay and allowances, leave and other conditions of service of officers and other employees of the Board would, in our opinion restrain either the reference of a dispute with regard to the retirement age of Time Scale Farm Workers under the Board nor the jurisdiction of the Industrial Tribunal to consider the dispute and pass an award thereon.

19. The decisions relied on by the petitioner also are not authority on the point that only a Central Government registered trade union can maintain a dispute before the CGIT. The decision relied on by the learned counsel for the petitioner specifically was with regard to the right of an unregistered association to approach either the Supreme Court under Article 32 of the Constitution of India or the High Court under Article 226 of the Constitution of India. The Industrial Disputes Act, 1947 provides for adjudication of industrial disputes and for maintenance of industrial peace by way of settlement of disputes. Once a reference is made by the Central Government finding that there is an industrial dispute in existence, we find nothing in the provisions of the Act or the Rules which provides that it is only a Trade Union registered under the Central Government that can maintain a dispute before the CGIT.

20. The judgment in W.A.No.407/2007 dated 13.08.2007, which is also relied on by the petitioner specifically considered the question whether the writ petition by an unregistered Union is maintainable before the High

Court and whether the Government was justified in refusing to refer a dispute and issuing endorsement under Section 12(5) of the Act. The Court held that an unregistered Union cannot maintain a writ petition under Article 226 of the Constitution of India. We find nothing in any of the authorities placed on record, which supports the contention of the petitioner that a Union registered only under the State Government could not have represented the workmen before the CGIT in a dispute admittedly referred to the CGIT for adjudication.

21. The learned counsel for the petitioner has taken us through the material which was produced on either side before the CGIT. It was after considering all the contentions advanced and after adverting to the material before it, that the CGIT had come to the conclusion that the claim raised by the Union was justified since all other similar employers were continuing their employees till the age of 60 years. The CGIT found that no material could be placed on record by the Management to justify its contention that Time Scale Farm Workers of the management alone were not eligible for the

said relief. It was found that in other Central Government Bodies and Corporations as well, the age of retirement of casual labourers stood enhanced to 60 years. It was after considering all such contentions that the CGIT came to the conclusion that the age of retirement was liable to be enhanced to 60 years in the case of the respondent-Union as well.

22. The contention that the decision was taken by the CGIT without reference to the material on record does not appear to be justified since both sides had produced records before the CGIT which were looked into for coming to the conclusion. Further, it is clear that the scope of interference by a Writ Court in awards of Industrial Tribunals, including Central Government Industrial Tribunals is quite narrow and is circumscribe by the principles clearly enunciated by the Apex Court.

23. In the case of ***General Manager, Electrical Rengali Hydro Electric Project, Orissa and others v. Giridhari Sahu and others*** reported in ***(2019) 10 SCC***

695, the Apex Court has clearly held that it is only in case of patent illegality or manifest unreasonableness that this Court would be justified in interfering in an award of a Tribunal under the Industrial Tribunal's Act. The Act being a beneficial piece of legislation and the Tribunal being a specialised body, specifically empowered to consider specific disputes between management and workmen, we are of the opinion that the award of the Tribunal cannot be lightly interfered with.

24. Having given our anxious consideration to the pleadings of the parties and the materials on record as well as the materials placed on record before the Tribunal, we are not convinced that there is any patent illegality in the award, which requires interference by this Court in exercise of its extraordinary jurisdiction.

25. In the above view of the matter, we are of the opinion that the petitioner cannot succeed in the writ petition. The writ petition therefore fails, the same is accordingly ***dismissed.***

Pending I.A.No.1/2015, I.A.No.3/2016, I.A.No.1/2018
and I.A.No.3/2022, are hereby *dismissed*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(G BASAVARAJA)
JUDGE**

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