



1987 Legal Eagle(SC) 452

IN THE SUPREME COURT OF INDIA

Equivalent Citations : 1987 (2) SCC 588

Before : Ranganath Misra : G.L.Oza

**Workers of Rohtas Industries Limited
Versus
Rohtas Industries Limited**

Case No. : 5222 of 1985

Date of Decision : 27-Apr-1987

Advocates Appeared:

Verma S.K., Swamy K., Suri Sushma, Sinha D.K., Singh R.S., Singh P.P., Sil A.K., Seetharaman P.R., Parasaran K., Nambiar K.R., Mitra Probir, Kumar Ranjit, Goburdhan D., Ghosh Shankar, Ghosh A.K., Garg R.K., Ganguli A.K., Gangadeb M.M., Dutta B., Dayal Pramod, Chitale Y.S., Chandrachud Dhananjay Y.

STATUTES REFERRED:

1. Industries (Development and Regulation) Act, 1951, Section 18(a)
2. Industrial Disputes Act, 1947, Section 25O
3. Industrial Disputes Act, 1947, Section 25(FFF)
4. Bihar Relief Undertakings (Special Provisions) Act, 1981, Section 3
5. Sick Textile Undertakings (Taking Over of Management) Act, 1972, Section 4

JUDGMENT/ORDER:

G.L.OZA, J.

(1) HEARD learned counsel for the petitioners as well as the respondent, the various financial institutions including the banks and also counsel for the State of Bihar. By orders of this court dated 5/02/1986 it was directed that all salaries and wages due to the workers from May 1984 onwards shall be paid to them in three instalments. It appears that they have not yet been paid in spite of the directions from this court. It was also brought to our notice that notwithstanding that order of this court, the State of Bihar has issued a notification dated 12/12/1986, wherein this industry has been declared to be a sick industry under S. 3 of the Bihar Relief Undertakings (Special Provisions) Act, 1981 (Bihar Act 12 of 1982) and by this notification the Bihar government has declared that the said Industrial Undertaking shall be and remain a relief undertaking for one year from the date of issue of the notification. On the basis of this an attempt was made to suggest that the liability of the industry for payment to the workers cannot be enforced. However, learned counsel appearing for the State of Bihar frankly conceded that so far as the liability of payment of wages to the workers is concerned the State government wants that it should be paid. As directed by this court a report had been submitted by the Official Liquidator in the case of this industry. This report shows that the products produced by this industry which are lying in stocks are of the value of Rs. 91,77,000.00. This report also discloses that from the month of May 1984 till 8/07/1984 when this industry closed down an amount of Rs. 89,00,000.00 remains to be paid to the workers as their salaries and emoluments.

(2) THE learned counsel appearing for the State Bank of India and other financial institutions attempted to contend that these goods which are the finished products lying in stock are pledged with these banks and, therefore, they have a prior claim over the sale proceeds of these stocks and it was, therefore, contended that this could not be sold and the workers could not be paid off. On the other hand it was suggested that in fact a scheme has been drawn up to revive the industry in the interests of the workers and the society in general and in that scheme of starting the industry again financial problems may arise and if this stock is sold out and the money collected there from are paid out to the workers then it may create difficulties.

(3) IT is no doubt true that these products the stock of which have been shown in the report and the value of which has been shown by the Liquidator as Rs. 91,77,000.00 is pledged with banks, is a priority

in law in favour of the banks but it also could not be disputed that these stocks were the products of this industry before its closure and, therefore, the workers also contributed their labour and it is the result of their hard work that these stocks could be produced and in our opinion therefore, it could not be said that the wages and emoluments for the period up to closure would not rank in priority. It is also significant that after the closure in July 1984, till today in spite of the order passed by this court the workers have not been paid. Their subsistence and living is also perhaps of paramount importance and has to rank with highest priority. It is in view of this as it appeals, that the government of India is keen to have a scheme for revival of this industry. Learned counsel for the State of Bihar also frankly conceded that so far as payment to the workers is concerned the State government also desires that they should be paid their salaries. It is no doubt true that at present there are no assets available out of which the whole payment of all the dues to the workers from May 1984 till today could be done but from out of these assets the products which are lying in stocks valued at Rs 91,77,000, the salaries and the dues of the workers from May 1984 till the date of closure could be made. It was contended that in case these stocks are liquidated and the amount collected are paid off to the workers, difficulty may arise as this asset which has been taken into account will not be available for the scheme of re-starting the industry. Looking to all the circumstances and taking a broad and humane view of the situation we are of the opinion, that it would be just and proper that these goods which are lying in stock should be sold and out of the sale proceeds the workers should be paid their dues up to the date of closure (from May 1984/07/1984 i.e. July 8/07/1984) so that at least they will get something for subsistence. Learned counsel for the State Bank of India pointed out that his client has paid for the insurance of certain assets and for loss thereof in whole or in part, the insurance has paid for the loss. The Official Liquidator may keep that amount separately and allow the State Bank to adjust the same against its insurance. So far as the pledge and the priority of the financial institutions are concerned, we have no doubt that they have other sufficient securities and properties of the company and, therefore, if this stock of finished products are sold to meet the basic requirements of the workers, their interests would not be in jeopardy. Apart from it, we also hope and trust that if the loss of this amount of Rs 91,77,000.00 somehow comes in way of the scheme of re-starting of the industry, the government of India would find funds to save the situation and help early revival of the company. We therefore direct that these stocks which are lying with the industry valued at Rs. 91,77,000.00 shall immediately be disposed of and out of this the wages and other dues of the workers for the period from May 1984 till 8/07/1984, shall be met. The balance, if any, will be utilised for meeting other pressing demands in the discretion of the Official Liquidator subject to orders of the court. We are sure that the Official Liquidator will ensure that the disposal fetches the best of rates. We may also make it clear that issuance of the notification by the Bihar State government will not come in the way of sale of these assets and payment to the workers. We direct that this shall be completed within two months from today. The case may come for further directions in third week of July.

(4) WE expect that by then with the lead taken by the Central Government, the scheme of revival would have made sufficient headway and everyone would be in a position to have an optimistic view of the situation.

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