

30-11-2023

ct no. 13

Sl. 86

sp

WPA 26556 of 2022

H.T. Media Limited

-Versus-

First Labour Court & Anr.

Mr. Surajit Nath Mitra, Ld. Sr. Adv.

Mr. S. Banerjee,

Mr. Varun Kedia,

Mr. Avesh Jaiswal

...for the petitioner

Mr. R. Guha Thakurata

..for the respondent no. 2

1. The matter has been listed in Court for extension of interim order. The writ petition is itself taken up for hearing as affidavits have been exchanged.
2. This Court has carefully heard the learned counsel for the petitioner and the respondent no. 2.
3. The short question that arises is that of the propriety of the order dated August 17, 2022 passed by the First Labour Court at Calcutta. By the impugned order, cross-examination of a management witness in four several references, i.e., case no. 8 of 2018, 12 of 2018, 13 of 2018 and 14 of 2018, had been ordered to be done on the same day. This order was passed on an

application of the workmen in each of the cases.

4. It is the contention of the workman that the issue as to whether recommendation of the Majita Wage Board would apply to the individual workman who are covered under the Working Journalists & Other News paper Employees (Conditions of Service) and Misc. Provisions Act, 1955, is a common issue in the four cases. The workman contended and the Labour Court accepted that after being cross-examined in one case, the management witness may get wiser and, correct himself to the prejudice of the workmen in the other case.
5. There is some substance in the argument of the workman and the reasoning of the Labour Court. Indeed when issues are similar in four several references, the witness could become wiser, for the purpose of cross-examination in the other references on the same issue.
6. However, one must bear in mind that there are four separate distinct references made by the appropriate Government for adjudication by the Labour Court.
7. The workmen have not sought for clubbing or common hearing of the four several

references, if the same is at all permitted within the purview of the RB Act, 1947. It is equally, however, true that the procedure adopted by the Labour Court for directing cross-examination of the witness of the management in all four references on one day apart from being onerous to the witness, is, rather alien to the principles followed under the Evidence Act.

8. It is true that the Labour Court is not bound by the strict principles of the Evidence Act and can frame procedures of its own. Such power must be construed in the context of a single reference and may not apply to the extent of conferring power on the Labour Court to direct cross-examination of a witness who may be common in several references, on one day for all such references.
9. The apprehension of the workman, are unavoidable perils of witness action. Common evidence cannot be led unless there is a single common reference or an order clubbing the reference.
10. This Court is also notes that as to whether Majita Wage Board recommendation would be applicable to the petitioner would not depend to that extent on the oral evidence of

a witness. It could be a mixed question of admitted facts and law.

11. In the aforesaid circumstances, this Court is of the view that the impugned order cannot be sustained in law and is liable to be quashed and set aside.
12. This Court has chosen to take up the writ petitions themselves even at the stage of consideration of extension of interim order as the references are of the year 2018 and are pending adjudication for more than 5 years. It would ensure to the benefit to both the workman as well as the employer if the references are disposed of as expeditiously as possible.
13. It is ordered that the impugned order dated August 17, 2022 shall stand set aside.
14. The Labour Court is directed to take up the reference and have the management witness examined and cross-examined separately for each of the cases. The cases shall be disposed of mandatorily and positively, within a period of 4 months from date.
15. With the aforesaid observations, the instant writ petition shall stand disposed of.
16. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)