

6. As a result, the appeal of the Union of India is partially allowed, to the extent that the finding on issue No. 3 is set aside, and it is held that the second order of removal could be passed by the appellant, against the respondent, but it could not be put into operation during the subsistence of the earlier operated order of dismissal. Conversely, the orders of the Courts below are set aside, to the extent to which they have declared the plaintiff to be in continuity of service, as a sequel to the declaration granted by them that the later order of removal, dated 14th July, 1969, was illegal, void and inoperative, for reasons other than the reason of existence of the first dismissal order. The declaration stands modified to that extent. Now, the declaration in favour of the plaintiff would stand granted simpliciter that the order of his removal, dated 14th July, 1969, is illegal, void and inoperative and not binding on the plaintiff, without any consequential order with regard to the continuity of service in the presence of the operated order of dismissal, dated 14th February, 1969.

7. With this modification the appeal is partially allowed, but the plaintiff's suit stands decreed with the amended declaration, as specified above. No costs.

8. Before parting with the judgment, and to be fair to the learned counsel for the appellant, it deserves mention that he attempted to question the finding of the trial Court on issue No. 1, but since no argument was addressed against that finding before the lower appellate Court, he was not allowed to agitate the matter, having left it unagitated before the lower appellate Court.

N.K.S.

Before Rajendra Nath Mittal, J.
KUNDAN LAL and another,—Petitioners
versus
MEHTAB RAM and another,—Respondents.
Civil Revision No. 1693 of 1979.
January 11, 1980.

Arbitration Act (X of 1940)—Sections 20 and 23—Dispute referred for arbitration under section 20—Court—Whether bound to specify the matters in dispute—Provisions of section 23—Whether applicable to such arbitration.

Kundan Lal and another *v.* Mehtab Ram and another
(R. N. Mittal, J.)

Held, that the Arbitration Act, 1940, provides three types of arbitrations, first, arbitration without intervention of a court, secondly, arbitration with intervention of a court where there is no suit pending and thirdly, arbitration in suits. The first type of arbitration is provided in Chapter II (Sections 3 to 10), the second type in Chapter III (Section 20) and the third type in Chapter IV (Sections 21 to 25). Section 20, under which reference has been made, does not provide that the Court while referring the case to the arbitrator should specify the matter in dispute between the parties, while making a reference to the arbitrator in suits, section 23 is applicable. It provides that the Court shall refer to the arbitrator the matter in difference which he is required to determine. No such provision has been made in section 20 of the Act. The provisions of section 23 cannot be imported in arbitration proceedings referred to under section 20. Thus, where a dispute is referred for arbitration under section 20 of the Act, the Court is not bound to specify the matter in dispute between the parties.

(Para 5).

Petition under section 115, C.P.C., for revision of the order of Shri B. K. Gupta, H.C.S., Sub-Judge 2nd Class, Kaithal, dated 9th April, 1979, setting aside the order dated 30th January, 1976, passed by Shri J. D. Chandna, Sub-Judge IInd Class, Kaithal.

K. S. Kapur, Advocate, for the Petitioners.

Baldev Kapoor, Advocate, for the Respondents (on 10th January, 1980).

JUDGMENT

R. N. Mittal, J. (*Oral*)

(1) This is a revision petition by Kundan Lal, *et cetera*, petitioners, against the order of the Subordinate Judge Second Class, Kaithal, dated April 9, 1979, setting aside the award.

(2) Briefly, the facts are that the petitioners and the respondents started a business of manufacture and sale of bricks in partnership under the name and style of M/s. Cheeka Brick-kiln Industry at Cheeka. They executed a deed of partnership on September 20, 1968. One of the terms in the deed was that in case of dispute relating to partnership business, it would be referred to Arbitrator in accordance with the provisions of the Indian Arbitration Act (hereinafter referred to as the Act). Some disputes arose between the parties and the petitioners filed an application under section 20 of the Act in the Court of the Subordinate Judge, praying that the matter be referred

to the Arbitrator. He referred it to the Arbitration of Bua Ditta Brick-kiln-owner.

(3) The Arbitrator made an award and filed it in the Court on November 4, 1976. The respondents raised an objection against the award that no points were framed by the Court upon which the Arbitrator was to give the award and, therefore, it was not sustainable. The objection of the respondent was upheld by the Subordinate Judge,—*vide* order, dated April 9, 1979. He, therefore, set aside the award. The petitioners have come up in revision against the said order to this Court.

(4) It is contended by the learned counsel for the petitioners that it was not necessary for the Court to frame the points, while referring the matter to the Arbitrator under section 20 of the Act. He vehemently argues that while deciding the case, the Court took into consideration section 23 of the Act, which was applicable to arbitration in suits and not to the arbitration which are with the intervention of the Court where there is no suit pending. He further argues that in the aforesaid situation, the order of the Court is without jurisdiction and liable to be set aside.

(5) I have given a careful consideration to the argument of the learned counsel and find force in it. The Act provides three types of arbitrations, first, arbitration without intervention of a Court, secondly, arbitration with intervention of a Court where there is no suit pending and thirdly, arbitration in suits. The first type of arbitration is provided in Chapter II (Sections 3 to 19), the second type in Chapter III (Section 20) and the third type in Chapter IV (Sections 21 to 25). It is not disputed in the present case that the matter was referred to arbitration under section 20, which is a part of Chapter III. The section does not provide that the Court while referring a case to the Arbitrator should specify the matter in difference between the parties. While making a reference to the Arbitrator in suits section 23 is applicable. It provides that the Court shall refer to the Arbitrator the matter in difference which he is required to determine. No such provision has been made in section 20 of the Act. It is well settled that the provisions of section 23 cannot be imported in arbitration proceedings referred to under section 20. In the said view I am fortified by the observations of Dua, J. (as he then was) in *State of Himachal Pradesh and*

Sham Singh v. State of Punjab and another (A. S. Bains, J.)

another v. Lala Roshan Lal Kuthiala and others (1). The learned Judge held that section 23, occurring as it does in Chapter IV of Arbitration Act, applies only to arbitration in suits and not to arbitration with the intervention of a Court where no suit is pending. Therefore, in my view, the Court could not set aside the award on the ground that no points were framed for determination of the Arbitrator by the Court when the matter was referred to him by it. Section 30 contains the ground for setting aside the award. The Court has, however, not decided the other objections filed by the respondents. Consequently, I accept the revision petition, set aside the impugned order and remand the case to the Subordinate Judge for deciding the other objections. The costs in the revision petition shall be the costs in the cause. The parties are directed to appear in the Subordinate Court on February 15, 1980.

N.K.S.

Before A. S. Bains, J.

SHAM SINGH,—*Petitioner.*

versus

STATE OF PUNJAB and another,—*Respondents.*

Criminal Writ Petition No. 189 of 1979.

January 15, 1980.

Punjab Jail Manual—Chapter 20, Paras 635 and 639—Prisoner serving sentence in default of payment of fine—Such prisoner—Whether entitled to ordinary remissions and remissions for good conduct.

Held, that from a reading of para 635 of the Punjab Jail Manual, it is plain that a prisoner is entitled to two days remission in every month for his good conduct and scrupulous attention to all prison regulations and two days remission in every month for industry and due performance of the daily task imposed on him. Similarly, under para 639, a prisoner is further entitled to fifteen days' remission in a year in case he has not committed any prison offence during such period. However, if he completes three years of his sentence and is not punished for any prison offence during that period, he is entitled

(1) 1963 P.L.R. 318.