M. P. Bakshi
v.
Life Insurance Corporation of India

G. L. Chopra, J.

The Rajasthan decision in *Barkatali* v. *Custodian-General of Evacuee Property of India.* (1), holding the contrary view and relied upon by Mr. Talwar, was not regarded as good law by Wanchoo, C.J. (as he then was) in a later case of the same High Court in *Dungardas and another* v. *Custodian, Rajasthan and another,* (2). In view of the Supreme Court decision referred to above, the learned Chief Justice upheld the preliminary objection that the Rajashthan High Court had no jurisdiction to pass any order against the Custodian-General, New Delhi, and as the order of the Deputy Custodian, Ganganagar, had been upheld and confirmed by the Custodian-General in revision, the applicant could not ask that Court to issue a writ to the Deputy Custodian, Ganganagar, as that would not be of any help to the applicant.

The preliminary objection must, therefore, prevail and the petition ought to be dismissed. I order accordingly, but in view of the facts of the case I leave the parties to bear their own costs.

*B.R.T.*

SUPREME COURT

*Before Bhuvaneshwar Prasad Sinha, P. B. Gajendragadkar and K. N. Wanchoo, JJ.*

THE MANAGER, HOTEL IMPERIAL, NEW DELHI,—
*Appellant*

*versus*

THE CHIEF COMMISSIONER, DELHI, AND OTHERS,—
*Respondents*

**Civil Appeal No. 291 of 1956**

1959

May, 13th

*Industrial Disputes Act (XIV of 1947)—Section 10—Order of reference containing the words "workmen as*

(1) A.I.R. 1954 Raj. 214
(2) A.I.R. 1956 Raj. 163

*represented by the Hotel Workers' Union"—Reference, whether incompetent—Order of reference not mentioning the workmen involved in the dispute but mentioning workmen generally—Whether bad for vagueness.*

*Held*, that the fact that in the order of reference the words "Workmen as represented by the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi" were added will not make the reference bad or incompetent. The addition of these words was merely for the sake of convenience so that the tribunal may know to whom it should give notice when proceeding to deal with the reference. Nor does the order of reference become incompetent because it mentions that the workmen will be represented by such and such union in the dispute and does not mention the name of any officer of the union.

*Held further*, that the reference is not bad because it does not specify how many of the 480 workmen of thirty different categories were involeved in the dispute. It is unnecessary for the purposes of section 10 of the Industrial Disputes Act, 1947 where the dispute is of a general nature relating to the terms of employment or conditions of labour of a body of workmen, to mention the names of particular workmen who might have been responsible for the dispute. It is only where a dispute refers to the dismissal etc. of particular workmen as represented by the union that it may be desirable to mention the names of the workmen concerned. In this case, the dispute was also about workmen to whom notice of dismissal had been given and in that connection the names of the workmen concerned were mentioned in the order of reference. The order of reference is not vague because it clearly specifies the parties to the dispute and the nature of the dispute.

*Appeal from the Judgment and Order dated the 25th November, 1955, of the Circuit Bench of the Punjab High Court at Delhi, in Civil Writ Application No. 189-D of 1955.*

Jai Gopal Sethi with J. B. Dadachanji, S. N. Andley, Rameshwar Nath and P. L. Vohra, for Appellant.

R. H. Dhebar, T. M. Sen, G. S. Pathak, with V. P. Nayar and Janardan Sharma, for Respondents.

JUDGMENT

The following Judgment of the Court was delivered by: —

Wanchoo, J.

WANCHOO, J.—This appeal comes before us on a certificate granted by the Punjab High Court under Article 133(1)(a) and (c) of the Constitution. The appellant is the manager, Hotel Imperial, New Delhi (hereinafter called the hotel) while the respondents are the Chief Commissioner, Delhi, the Additional Industrial Tribunal, Delhi and the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi. The main contesting respondent is respondent No. 3 (hereinafter called the union). A dispute arose between the hotel and its workmen in October 1955. It was referred to an Industrial Tribunal on October 12, 1955 by the Chief Commissioner of Delhi. The portion of the order of reference, relevant for our purposes, is in these terms: —

> "Whereas from a report submitted by the Director of Industries and Labour, Delhi under section 12(4) of the Industrial Disputes Act, 1947, as amended, it appears that an industrial dispute exists between the management of the Hotel Imperial, New Delhi and its workmen as represented by the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi;
>
> "And whereas on a consideration of the said report the Chief Commissioner, Delhi, is satisfied that the said dispute should be referred to a tribunal;"

Then follows the order referring the dispute to the Additional Industrial Tribunal, Delhi including

the terms of reference. Soon after the hotel filed a writ application in the Punjab High Court challenging the order of reference on a variety of grounds. The writ application was heard by the High Court and dismissed on November, 25, 1955. The hotel then applied for leave to appeal to this Court, which was granted on January 13, 1956. The hotel obtained stay of the proceedings before the Additional Industrial Tribunal from this Court on February 27, 1956. That is how this dispute which would have been otherwise decided long ago is still in its initial stage.

The main contention on behalf of the hotel is that the reference is incompetent and two grounds have been urged in support of it; namely, (1) the union could not be made a party to the reference under the Industrial Disputes Act, 1947, (hereinafter called the Act); and (2) the reference was vague, as it did not indicate how many of the 480 workers of thirty different categories working in the hotel were involved in the dispute. We are of opinion that there is no force in these grounds of attack. An "industrial dispute" for our purposes has been defined in section 2(k) of the Act as meaning "any dispute or difference between employers and workmen.....which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person." Section 10(1) of the Act gives power to the appropriate government where it is of opinion that an industrial dispute exists or is apprehended to refer the dispute to a tribunal for adjudication. It cannot be denied on the facts of this case that there was a dispute between the hotel and its workmen and it went to this length that the hotel decided to dismiss a large number of workmen on October 7, 1955. It is also undoubted that the dispute was with respect to the terms of employment or conditions of labour of

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the workmen. The Chief Commissioner would therefore have power under section 10(1) of the Act to make a reference of the dispute to a tribunal for adjudication. The attack of the hotel is on the form in which the reference was made and the contention is that the reference in this form is incompetent. We have already set out the relevant part of the order of reference giving the form in which it was made. The two parties to the dispute are clearly indicated, namely, (1) the employer which is the management of the hotel and (2) the workmen employed in the hotel. The objection, however, is that the words "as represented by the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi" which appear in the order of reference make it incompetent, inasmuch as the union could not be made a party to the reference. We are of opinion that this objection is a mere technicality, which does not affect the competence of the order of reference. The fact remains that the dispute which was referred for adjudication was between the employer, namely the management of the hotel, and its employees, which were mentioned as its workmen. The addition of the words "as represented by the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi" was merely for the sake of convenience so that the tribunal may know to whom it should give notice when proceeding to deal with the reference. That however did not preclude the workmen, if they wanted to be represented by any other union, to apply to the tribunal for such representation or even to apply for being made parties individually. Section 36 of the Act provides that a workman who is a party to a dispute shall be entitled to be represented in any proceeding under the Act by (a) an officer of a trade union of which he is a member, or (b) an officer of a federation of trade unions to which the

trade union of which he is a member is affiliated; or (c) where the workman is not a member of any trade union, by an officer of any trade union connected with, or by any other workman employed in the industry in which the workman is employed. The fact therefore that in the order of reference the quoted words were added for the sake of convenience as to where the notice to the workman should be sent would not in our opinion make the reference incompetent. The objection further is that even if the workman is entitled to be represented by an officer of a trade union of which he is a member, the reference in this case does not mention any officer of the trade union but mentions the union itself. This in our opinion is a technicality, upon technicality for the union not being a living person can only be served through some officer, such as its president or secretary and it is that officer who will really represent the workmen before the tribunal. We are therefore of opinion that the reference which is otherwise valid does not become incompetent simply because it is mentioned therein that the workmen will be represented by such and such union in the dispute. We may in this connection point out that the large majority of references under the Act which we have come across are usually in this form and the reason for it is obvious, namely, the convenience of informing the tribunal to whom it should send a notice on behalf of the workmen, whose number is generally very large. We therefore reject the contention that the reference is bad simply because in the order of reference the words "as represented by the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi" have been added.

Equally, we see no force in the other ground of attack, namely, that the reference is bad

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because it does not specify how many of the 480 workmen of thirty different categories were involved in the dispute. It is in our opinion unnecessary for the purposes of section 10 where the dispute is of a general nature relating to the terms of employment or conditions of labour of a body of workmen, to mention the names of particular workmen who might have been responsible for the dispute. It is only where a dispute refers to the dismissal etc. of particular workmen as represented by the union that it may be desirable to mention the names of the workmen concerned. In this case, the dispute was also about workmen to whom notice of dismissal had been given and in that connection the names of the workmen concerned were mentioned in the order of reference. We may in this connection refer to *State of Madras* v. *C. P. Sarathy and another* (1), where a similar attack on the competence of a reference was made on the ground of vagueness. In that case the reference was in these terms: –

> "WHEREAS an industrial dispute has arisen between the workers and managements of the cinema talkies in the Madras City in respect of certain matter;
>
> "AND WHEREAS in the opinion of His Excellency the Governor of Madras, it is necessary to refer the said industrial dispute for adjudication;"

Thereafter followed the order of reference, which did not even contain the terms of reference. The order however indicated that "the Industrial Tribunal may, in its discretion, settle the issues in the light of a preliminary enquiry which it may

(1) [1953] S.C.R. 334

hold for the purpose and thereafter adjudicate on the said industrial dispute". The Commissioner of Labour was requested to send copies of the order to the managements of cinema talkies concerned. It was held there that "the reference to the Tribunal under section 10(1) of the Industrial Disputes Act, 1947, cannot be held to be invalid merely because it did not specify the disputes or the parties between whom the disputes arose". It was further held that "the Government must, of course, have sufficient knowledge of the nature of the dispute to be satisfied that it is an industrial dispute within the meaning of the Act, as, for instance, that it relates to retrenchment or reinstatement. But, beyond this no obligation can be held to lie on the Government to ascertain particulars of the dispute before making a reference under section 10(1) or to specify them in the order".

The present reference as compared to the reference in that case cannot be called vague at all. Here the parties to the dispute are clearly specified, namely, (i) the management of the hotel, and (ii) its workmen. The nature of the dispute is also specified in the terms of reference. It was in our opinion entirely unnecessary to mention in the order of reference as to who were the workmen who were responsible for the dispute. We are therefore of opinion that this attack on the ground of vagueness also fails. There is no force in this appeal and it is hereby dismissed with costs to respondents No. 3. In view of the fact that more than three years have passed since the reference was made, we trust that the Additional Industrial Tribunal will now dispise of the matter as expeditiously as it can.

*B.R.T.*

APPELLATE CRIMINAL

*Before D. Falshaw and I. D. Dua, JJ.*

STATE,—*Appellant*

*versus*

SAT RAM DASS,—*Respondent*

**Criminal Appeal No. 520 of 1958**

1959

May, 13th

*Opium Act (I of 1878)—Section 9—Punjab Opium Order 21.5—Possession of opium-extracted poppy-heads—Whether an offence—Interpretation of Statutes—Punctuations—How far to be considered—Acquittal—When to be set aside.*

*Held*, that the opium-extracted poppy-heads can lawfully be possessed in any quantity.

I. D. Dua, J.

*Held*, that to avoid absurdity or incongruity even grammatical and ordinary sense of the words can in certain circumstances be avoided. The punctuation of a law, generally speaking, does not control or affect the intention of the legislature in its enactment. The intention is generally gathered form the context to which the words relate and the punctuations from no part of an Act. Punctuation does sometime lend assistance in the construction of sentences, but they are always subordinate to the context and court may legitimately punctuate or disregard existing punctuation or re-punctuate in order to give effect to the legislative intent. Even where a punctuation may be considered and given weight, for the purpose of discovering the intention of legislature, it can be done so only where a statute has been very carefully and accurately punctuated when enacted, and where all other means have proved futile.

*Held*, that in order to set aside an acquittal there must be very substantial and compelling reasons justifying reversal of the impugned order which should be shown to be clearly erroneous, because the presumption of innocence of the accused has been further reinforced by his acquittal. The High Court is, generally speaking, also slow in setting aside orders of acquittal in petty cases where no question of principle is involved.

*State Appeal from the order of Shri Amarjit Chopra Magistrate, Ist Class, Dhuri, dated 21st May, 1958, acquitting the respondent.*