

Bal Kishan  
and another  
v.  
Gopi Chand  
and another  
—  
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repealed by virtue of section 6 of Punjab Act No. 18 of 1958, and substituted by the corresponding laws as in force in the State of the Punjab, should not be liable to be reopened merely because of some difference between the laws formerly in force in the transferred territories and the laws substituted for them by the Punjab Act No. 18 of 1958.

The rulings cited by the learned counsel for the respondents, *Sri Babu Lal v. Ganga Saren* (2), *New Singhal Dal Mill v. Firm Sheo Prasad-Jainti Parsad* (3), and *Waheed Hasan Khan v. State of Hyderabad* (4), do not contain anything helpful to the interpretation of the further proviso to section 6 of the Punjab Act No. 18 of 1958 on which Mr. Dalip Chand Gupta relied.

Accordingly, reversing the judgments of the Courts below, I am of the view that the application by the tenants for fixation of fair rent was not maintainable. The revision petition is, therefore, allowed and the application by the tenants before the Rent Controller dismissed. But in view of the difficulty and novelty of the legal question involved, the parties are left to bear their own costs throughout.

B.R.T.

CIVIL MISCELLANEOUS

*Before Shamsher Bahadur, J.*

BARA HINDU RAO,—*Petitioner.*

*versus*

THE KAPRA MAZDOOR EKTA UNION AND  
OTHERS,—*Respondents.*

Civil Writ No. 278-D of 1958

1961  
December, 19th

*Industrial Disputes Act (XIV of 1947)—Section 18  
(3)—Tribunal—Whether competent to implead a party  
in the reference before him.*

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- (2) A.I.R. 1952 All. 48  
(3) A.I.R. 1958 All. 404  
(4) A.I.R. 1954 Hyd. 204

*Held*, that the provisions of sub-section (3) of section 18 of the Industrial Disputes Act, 1947, vest an implied authority in the Tribunal to implead parties and it is not correct to say that an industrial dispute, which can be referred under section 10, must be restricted to the parties who are specified in the reference itself.

*Petition under Articles 226 and 227 of the Constitution of India praying that this Hon'ble Court may be pleased to summon the records of the Industrial Dispute No. 70 of 1958 and I.A. Misc. No. 51 of 1958 and after perusing the same to quash and set aside the Industrial Tribunal's order, dated 12th August, 1958, impleading the second Respondent as a party to the said Industrial Dispute No. 70 of 1958.*

S. L. SETHI, ADVOCATE, for the Petitioner.

R. DHAWAN, ADVOCATE, for the Respondents. 1 and 2.

#### ORDER

SHAMSHER BAHADUR, J.—The question in issue for determination in this petition relates to the competence of an Industrial Tribunal to implead a party.

By notification of the State Government dated the 3rd/4th March, 1958, an industrial dispute between the management of Delhi Cloth Mills, Swatantra Bharat Mills, Birla Cotton, Spinning and Weaving Mills Limited, and Ajudhia Textile Mills and their workmen (excluding clerks and mistries) as represented by the Kapra Ekta Union, was referred to the adjudication of the Industrial Tribunal, Delhi. Later a petition was filed by the Textile Mazdoor Sangh to be added a party to the industrial dispute. Mr. E. Krishnamurthi allowed this petition and impleaded this organization as a party by his order of 12th of August, 1958. This order has been challenged at the instance of the Delhi Cloth and General Mills under Article 226 of the Constitution of India on the ground that the Tribunal did not act within the bounds of its jurisdiction. It has been contended by the learned counsel for the petitioner that the provisions of the Industrial Disputes Act, 1947, do not

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warrant the action which has been taken by the Tribunal. Under section 10 of the Act the appropriate Government, when it is of the opinion that "any industrial dispute exists or is apprehended", may refer it for adjudication to a Tribunal. An industrial dispute under clause (1) of section 2 of the Act is defined as "any dispute of difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any persons". It is argued that an industrial dispute, which can be referred under section 10, must be restricted to the parties who are specified in the reference itself. It is only the appropriate Government which can make any change in the parties to an industrial dispute. Reliance has been placed for this contention on sub-section (5) of section 10 of the Act which authorizes the appropriate Government "at the time of making the reference or at any time thereafter" to include in it any establishment, group or class of establishments of a similar nature between whom a dispute exists or is apprehended. The counsel contends that the power to add parties in the reference lies only with the Government and not the Tribunal.

In the Chapter dealing with the procedure powers and duties of authorities it is mentioned under clause (3) of section 11 that a Tribunal to which reference is made under section 10 is vested with the powers of the Civil Court under the Code of Civil Procedure when trying a suit, in respect of the following matters:—

- “(a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses;
- (d) in respect of such other matters as may be prescribed.”

Concededly, the power to implead a party does not fall under any of these four heads and it is manifest that the Tribunal, acting as a Civil Court, has not been given any powers to implead a party. Mr. Krishnamurthi, however, relied on sub-section (3) of section 18 of the Act which mentions that a settlement arrived at in the course of conciliation proceedings under this Act shall be binding on—

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“(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute.....”

It is submitted on behalf of the petitioner that clause (b) of sub-section (3) of section 18 does not vest the Tribunal with a power to implead parties which are not mentioned in the industrial dispute. There is, however, abundance of authority for the proposition that the provisions of sub-section (3) of section 18 of the Act vest an implied authority in the Tribunal to implead parties. In a Division Bench Judgment of Subba Rao J., (now Mr. Justice Subba Rao of the Supreme Court) and Balakrishna Ayyar, J. of the Madras High Court in *P. G. Brookes v. The Industrial Tribunal, Madras, and others* (1), it was held that “section 18(b) by necessary implication gives power to the Tribunal to add parties. It can add necessary or proper party. He need not be the employer or the employee.” In the present instance the Industrial Tribunal has considered that the representation of the Textile Mazdoor Sangh is necessary for the representation of the employees. To a similar effect is the Single Bench judgment of the same court in *Radhakrishna Mills Ltd., v. The Special Industrial Tribunal, Madras, and others* (2), Govinda Menon, J., relying on the Division Bench authority of *P.G. Brookes v. The Industrial Tribunal, Madras and others* (1), held that the Tribunal is vested with the power

(1) A.I.R. 1954 Mad. 369

(2) A.I.R. 1954 Mad. 685.

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to add any person or establishment whose presence is necessary or proper for the due and just adjudication of the dispute. In a recent decision of the Supreme Court in *The Manager, Hotel Imperial, New Delhi v. The Chief Commissioner, Delhi and others* (3), Mr. Justice Wanchoo observed at page 1216 that the workmen were not precluded, "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." It seems to have been taken for granted by their Lordships that the Tribunal was vested with the powers to implead parties on the representation of the workmen. In this view of the matter the Tribunal cannot be said to have acted outside the scope of its jurisdiction and there is no reason for interference. This petition, therefore, fails and is dismissed with costs.

B.R.T.

REVISIONAL CRIMINAL

Before Tek Chand, J.

DHANJEE RAM SHARMA,—Petitioner

versus

NARANDER PAUL AND OTHERS,—Respondents

Criminal Revision No. 230-D of 1961.

1961  
 ———  
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*Code of Criminal Procedure (V of 1898)—Section 107—Proceedings under—Accused—Whether can be discharged on the ground that police did not produce witnesses despite several adjournments.*

*Held*, that when a magistrate takes cognizance of a case under section 107 of the Code of Criminal Procedure and passes an order under section 112 of the Code, and the names and addresses of the witnesses are mentioned in the calendar forming part of the police report, it is the duty of the magistrate to compel the appearance of the

(3) A.I.R. 1959 S.C. 1214.