

Financial Commissioner, Rehabilitation, were to be obtained and the matter was to be brought to the notice of Government”.

(9). It shall, thus, be made out that allotment of land to individuals could be made not on the basis of verified claims but also on the basis of copies of *Jamabandis* received from Pakistan. The perusal of record, in the present case, also reveals that the father of the petitioner was allotted land based upon entires in the *Jamabandis*. Inasmuch as the father of petitioner was allotted land, he could not be considered to be unsatisfied claimant and, therefore, provisions of Rule 67-A were not attracted in this case. Further, the allotment made in favour of father of the petitioner was not cancelled. It is only on account of applicability of *res judicata* and Rule 67-A that the Financial Commissioner had set aside the order passed by the Chief Settlement Commissioner and the decision on both the points having gone in favour of the petitioner, the obvious conclusion would be to set aside the order of Secretary to Government, Punjab Rehabilitation Department dated June 9, 1983 Annexure P6 and to restore the one passed by the Chief Settlement Commissioner dated September 8, 1976 Annexure P3.

(10) For the reasons stated above, this petition succeeds in the manner indicated above. In the peculiar facts of this case, however, there shall be no order as to costs.

J.S.T.

Before Hon'ble H. S. Bedi, J.

THE TRIBUNE TRUST, CHANDIGARH.—Petitioner.

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 481 of 1991

January 13, 1992

Constitution of India, 1950—Art. 226/227—Industrial Disputes Act, 1947—S. 10—Reference—State Government initially declined reference—Whether State could then take complete assault and refer dispute without notice to petitioner—Held that administrative action which tends to interfere with any body's right must also be preceded

by some kind of a notice which would satisfy requirements of natural justice—Order quashed.

Held, that the latest view of the apex Court is that even administrative action which tends to interfere with anybody's civil right must also be preceded by some kind of a notice which would satisfy the requirements of natural justice.

(Para 3)

Held, that for the reasons recorded above, the writ petition succeeds and Annexure P-7 is accordingly quashed. However, the matter is remanded to the State Government which will decide the matter afresh with regard to the reference within a period of three months from the date of communication of this order after affording an opportunity of hearing to the petitioner as also respondent No. 3.

(Para 5)

G. S. Sandhawalia, Advocate, for the Petitioners.

P. N. Aggarwal, Advocate, with Ashok Aggarwal, for Respondent No. 3.

JUDGMENT

Harjit Singh Bedi, J.

(1) The respondent No. 3, Raj Kumar, was appointed a part-time correspondent by the Tribune Trust,—*vide* order dated 17th September, 1979, Annexure P-1 to the petition. It is averred in the petition that as the work of the respondent was not found satisfactory inasmuch as that he misbehaved with the Chief Editor on 3rd May, 1989, his services were terminated,—*vide* order Annexure P-4 dated 3rd May, 1989. Respondent No. 3 thereafter wrote two letters of apology dated 20th May, 1989 and 30th May, 1989 Annexures P-2 and P-3, respectively, but, as no satisfactory response was received from the side of the petitioner a demand notice dated 22nd September, 1989, Annexure P-5 to the petition, was served on the petitioner by the aforesaid respondent. The conciliation proceedings between the contesting parties having failed, respondent No. 3 claimed a reference of the dispute to the Labour Court for adjudication that the same was declined,—*vide* order dated 16th February, 1990, Annexure P-6 to the petition. Respondent No. 3 thereafter filed Civil Writ Petition No. 3989 of 1990 against the order Annexure P-6 but the same was disposed of on 10th October, 1990 with the following observations :

“Mr. Mahajan states that since the filing of the petition, the relief has been granted to the petitioner. Therefore, we dispose it of as infructuous.”

The present writ petition has been filed by the Tribune Trust, Chandigarh, against the order Annexure P-7 allowed to in the order quoted above, by which the state Government referred the dispute between the parties for adjudication by the Labour Court.

(2) The only argument raised by Mr. G. S. Sandhwalia, learned counsel for the petitioner, is that the State Government having declined to refer the dispute,—vide Annexure P-6, could not take a complete somersault and refer the dispute,—vide Annexure P-7 without notice to the petitioner. In support of his case, he has cited *M/s Escorts Limited Faridabad v. Industrial Tribunal, Haryana and others* (1). In this case, it has been positively held that the rule of *audi alteram partem* is attracted to the exercise of power the second time under section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act' whilst referring the matter for adjudication after the same had been rejected earlier.

(3) Mr. P. N. Aggarwal, learned counsel for the respondent, has argued on the basis of the decisions reported as *M/s Avon Service Production Agencies (P) Ltd. v. Industrial Tribunal, Haryana and others* (2), *Good Year India Ltd. Jabalpur v. Industrial Tribunal, Rajasthan, Jaipur and others* (3), *Srikrishna Jute Mills, Eluru v. The Government of A. P. and others* (4), *Abdu Rehman Haji v. Abdul Rehman and others* 1980 (5), *Jupiter Cashew Company, Quilon v. State of Kerala and others* 1982 (6), *National Council of Applied Economic Research, New Delhi v. Delhi Administration and others* (7), that the afore-quoted judgments take into account the fact that if no reference has been made the first time, then there is no question of a second reference which would necessitate the issuing of a notice to the affected party before it is made. He has also argued, on the strength of the decision in *M/s Avon Services Production Agencies's case* (supra), that as the power of the Government under section 10(1) of the Act is administrative and not quasi judicial in nature, there is no requirement that any notice was required to be issued to the affected persons. While the broad proposition made by Mr. Aggarwal may not be entirely wrong, (the latest view of the apex Court is that even administrative action which tends to interfere with anybody's civil right must also be preceded by some kind of a notice which would

(1) 1983 I.L.R. Punjab and Haryana 494.

(2) A.I.R. 1979 S.C. 170.

(3) 1969 Lab. I.C. 444.

(4) 1977 Lab. I.C. 988.

(5) 1980 Lab. I.C. 910.

(6) Lab. I.C. 1431.

(7) 1986 (2) S.L.R. 115.

satisfy the requirements of natural justice. The decision of the Supreme Court in *M/s Avon Services Production Agencies case* (supra) was considered by the Division Bench of this Court in *M/s Escorts Limited, Faridabad's case* (supra) and it was pointed out that the main issue before the Supreme Court in that case as to whether a reference having been declined once could be allowed without any fresh material having come on record. The issue before me today was not pointedly before the Court. Admittedly, some of the judgments subsequently referred to by the counsel for respondent No. 3 do help his case but in view of the Division Bench judgment of this Court in *M/s Escorts Limited, Faridabad's case* (supra), which is binding on me and which itself has relied on a Full Bench decision of Madras High Court, a Division Bench judgment of the Karnataka High Court as also of the Calcutta High Court, no case can be made out in favour of the respondents to warrant interference by me.

(4) Mr. Aggarwal has also argued that the petitioner has no case on merits as in view of the definition of a 'working journalist' given in clause (f) of sections 2 and 3 of the working Journalists and Other Newspapers Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955, the case of respondent No. 3 was required to be referred to the Labour Court for decision. This argument too is without force as this Court, at the present stage of the proceedings, cannot go into this matter. It would be seen that,—vide Annexure P-6 the reference was initially declined on two grounds : (i) that respondent No. 3 being a part time worker, was not covered by the definition of a workman given in the Act and (ii) that the establishment of the petitioner being at Chandigarh, did not clothe the State of Punjab with the jurisdiction to make the order of reference.

Even presuming (though not deciding the point) that respondent No. 3 is deemed to be a workman and that part of the order Annexure P-6 is erroneous, yet the second point with regard to jurisdiction would still have to be gone into.

(5) For the reasons recorded above, the writ petition succeeds and Annexure P-7 is accordingly quashed. However, the matter is remanded to the State Government which will decide the matter afresh with regard to the reference within a period of three months from the date of communication of this order after affording an opportunity of hearing to the petitioner as also respondent No. 3. There will be no order as to costs.
