

Kanpur Leather Workers Union Through Shiva Dayal Vs. the Kanpur Tannery and Leather Workers Union

LegalCrystal Citation : legalcrystal.com/448194

Court : Allahabad

Decided On : Nov-08-1947

Reported in : AIR1949All558

Appellant : Kanpur Leather Workers Union Through Shiva Dayal

Respondent : The Kanpur Tannery and Leather Workers Union

Judgement :

Wanchoo, J.

1. This is an appeal by the Kanpur Leather Workers Union against the order of the Certifying Officer declaring the Kanpur Tannery and Leather Workers Union as the representative union of the workmen employed in the Industrial establishment engaged in leather tanning and manufacture in Kanpur under Rule 9, Industrial Employment (Standing Orders) Act of 1946.
2. The contention of the appellant union is that it represents the employees of Messrs. Coo-per Allen & Co. only, and as such, it should have been recognised as the representative of Messrs. Cooper Allen & Co. It is further contended that the respondent union represents the leather trade in general and contains workers of various establishments, but that the majority of the workers of Messrs. Cooper Allen & Co., are members of the appellant union.
3. It has been contended on behalf of the respondent union that as the standing orders submitted to the Certifying Officer for the leather trade were on behalf of the Employers' Association which represents a large number of leather concerns in Kanpur, the certifying officer was justified in considering as to which union represented the leather industry in general and in not going into the question as to whether a particular union represented a particular firm which might be a member of the Employers' Association which submitted draft standing orders on behalf of its members for the leather industry.
4. The main question, therefore, that has to be decided in this appeal is whether where the standing orders (are?) submitted for certification by a group of employers in similar industrial establishments jointly, under Sub-section (4) of Section 3. representative of the workmen to make the re-presentation against those orders should be of the industry in general or should also include representatives of particular unions attached to particular firms, in case there are such unions. There is no doubt that, on the evidence, that was before the certifying officer, the respondent union was rightly held to represent the leather industry in Kanpur in general because it has a much larger number of workmen in the leather trade than the appellant

union. But the contrition on behalf of the appellant union is not that it is more representative of the industry in general. Its contention is that it is more representative of the workers in the factory of Messrs. Cooper Allen and Co., and that therefore, so far as that establishment was concerned, it should have been considered the representative union for the purpose of making objection to the draft standing orders, though the appellant union would have no objection to the respondent representing the other establishments in the leather industry in Kanpur.

5. As I read Sub-section (i) of Section 3 of Act XX [20] of 1946, it can only mean that a group of employers can submit a joint draft of standing orders, but the forms attached to the rules framed under the Act, clearly show that even though the draft may have been submitted jointly by the group of employers, the details of workers of each particular establishment have still to be supplied to the certifying officer. Appendix 1 to Form A, for example, says that the names and other particulars of the trade unions of workers have to be supplied and in column 3, it has also to be mentioned whether the trade union concerned is recognised by the employer or not. It seems to me, therefore, that where joint draft standing orders are submitted under Sub-section (i) of Section 3, they can only be treated on behalf of each of the concerns, and if there are exclusive unions in each of the concerns, I do not see why those representing the workmen of that particular concern should not have a say in the certification of the draft standing orders, for these orders will naturally affect the workmen of that particular establishment also. From the facts in this case, it is clear that the respondent union certainly represents the other establishments in the leather trade in Kanpur. As these draft standing orders have been submitted not only by Messrs. Cooper Allen and Co., but on behalf of other establishments, the respondent union must continue to represent the workers in the other establishments, as has already been held by the certifying officer. To this, as I have already said, the appellant union has and can have no objection. The Certifying Officer, however, has not looked into the question whether the appellant union is more representative of the workmen of this particular establishment, namely, Messrs. Cooper Allen and Co., for his enquiries were directed to the general question as to which union was more representative of the trade as a whole. But in the view that I have taken, the appellant union may also have a say in the matter, provided the certifying officer finds, after an enquiry, that the appellant union is an exclusive union of the workers of and more representative of the particular establishment, namely, Messrs. Cooper Allen and Co. In order to find this out a fresh enquiry will have to be made from this point of view.

6. I, therefore, order the Certifying Officer to make a fresh enquiry, from this point of view to find out whether the appellant union is an Exclusive Union of the workers of and more representative of the particular establishment, namely Messrs. Cooper Allen and Co., and should, therefore, be allowed to have a say in the matter of the draft standing orders on behalf of only the workers of Messrs. Cooper Allen and Co. while the respondent union will continue to represent the other concerns in the industry as heretofore. If the Certifying Officer finds that the appellant union is an Exclusive Union of the workers of and more representative of this particular establishment, namely, Messrs, Cooper Allen and Co., and not the respondent union, in that case the appellant union will only be heard so far as Messrs. Cooper Allen and Co. is concerned, while the respondent union will be heard in regard to the other concerns of the industry. The enquiry will be made under notices to both parties. In view of the fact that the point involved in this case was a legal point of some difficulty, I order parties to bear their own costs of this appeal.

7. A copy of this order will be sent at once to the Certifying Officer and the record will be returned. The standing orders will not be certified pending completion of this enquiry.

LegalCrystal - Indian Law Search Engine - www.legalcrystal.com