

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 4466 OF 2004

M/S. JARDINE HENDERSON LTD.

Appellant (s)

VERSUS

BIHAR ENGG. KAMGAR UNION & M.V.M.U.SANGH

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer  
for interim relief and office report )

Date: 27/10/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE DR. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant(s)

Mr. S.B. Upadhyay, Adv.

Mr. Shiv Mangal Sharma, Adv.

For Respondent(s)

Mr. R.P.Gupta, Sr.Adv.

Mr. Prakash Jha, Adv.

Mr. Vishal Arun, Adv.

Ms. Kamakshi S. Mehlwal, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order.

No order as to costs.

Anita

(Jasbir Singh)

Court Master

(Signed Order is placed on the file.)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4466 OF 2004

M/S. JARDINE HENDERSON LIMITED  
(s)

... Appellant

Versus

BIHAR ENGG. KAMGAR UNION & M.V.M.U. SANGH  
t(s)

... Respondent(s)

O R D E R

This Appeal is filed against the Order of the Jharkhand High Court dated 30th April, 2003. Briefly stated the facts are that on 14th November, 1987 the Appellant-Company posted an application under Section 25-N of the Industrial Disputes Act, 1947 for permission to retrench 101 workers. This Application was received by the authority

on 20th November, 1987. On 13th January, 1988, a letter was addressed by the authority refusing permission to retrench. The Appellant-Company on the same day, in the mid night, proceeded to retrench all the workers on the ground that the permission had not been received within 60 days as contemplated by Section 25-N of the Act.

The workmen raised a dispute. The Industrial Tribunal counted 60 days from 14th November, 1987 and held that the period of 60 days expired on 12th January, 1988. The Industrial Tribunal held that the retrenchment was thus proper and the refusal of permission on 13th January was of no effect.

The learned Single Judge of the High Court set aside the award and held that the retrenchment was not proper. The Appeal filed by the Appellant-Company has been dismissed by the impugned Judgement.

In our view, there is absolutely no substance in this Appeal.

We are unable to accept the submission that the words "Application is made" would mean that period of 60 days start running from the date when such an Application is posted. Under Section 27 of the General Clauses Act time would start running only from the date when such an Application is received. It is clear that the words " Application is made" necessarily means from the date on which the Application is received by the Authority. To hold otherwise would defeat the very purpose of providing 60 days time to the authority to consider the

application. When it is sent by post there may be delay in delivery.

This cannot result in the authority being deprived of 60 days period to

consider the application.

In any case, this question is put beyond any doubt by the

Rules, both under the Industrial Disputes (Central) Rules, 1957 as well

as the Rules framed under the Industrial Disputes Act by the Bihar

Government. Rule 76-A of the Industrial Disputes (Central) Rules,

1957 categorically states that the period would start running from the

date when the Application is received. The same is the position under

Rule 78-A of the Bihar Rules.

We, therefore, see absolutely no substance in the contention.

The Appeal stands dismissed. There shall be no order as to

costs.

.....J.

(S.N. Variava)

.....J.

(Dr. AR. Lakshmanan)

.....J.

(S.H. Kapadia)

New Delhi,

October 27, 2005.