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CASE COMMENTRY: WORKMEN OF INDIAN EXPRESS (P) LTD. VS THE MANAGEMENT

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Abstract

The case of Gulab Singh and Satya Pal vs. Indian Express newspaper is a landmark legal battle in India's industrial relations landscape. The dispute revolves around two workmen claiming to have been performing proof-reader duties but not being acknowledged as such by the company. Despite official orders mentioning them as copy holders, they were reportedly assigned tasks of proof-readers, leading to a dispute between them and the management. The Delhi Union of Journalists and the Delhi Administration referred the matter to the Industrial Tribunal in Delhi to resolve the dispute. The central issues addressed by the court include the jurisdiction of the tribunal, the espousal of disputes by trade unions, and the recognition of individual workmen's grievances as industrial disputes. The court examines the evidence, including minutes of meetings and union resolutions, to determine whether the union effectively espoused the workmen's dispute and whether a union representing workmen from various establishments can sponsor individual workmen's causes. The judgment sets significant precedents in recognizing individual disputes as industrial disputes and upholding the role of unions in representing the interests of workmen. The case highlights the importance of providing a fair and efficient mechanism to resolve labor disputes and protect the rights of workers in the context of India's industrial relations framework.

CASE TITLE	Workmen Of Indian Express (P) Ltd. vs The Management
CASE NO	Civil Appeal No. 1733 of 1967
CITATION	AIR 1970 SC 737
DATE OF ORDER	27 November, 1968
JURISDICTION	THE SUPREME COURT OF INDIA
CORAM	Hon'ble Justice Jaishanker Manilal Shelat, and Hon'ble Justice Mr. V Bhargava
AUTHOR OF THE JUDGEMENT	Hon'ble Justice Jaishanker Manilal Shelat
APPELLANTS	Workmen of Indian Express (P) Ltd.
RESPONDENT	Management of Indian Express (P) Ltd.
COUNCEL FOR PETITIONER	N/A
COUNCEL FOR RESPONDENT	N/A

ACT & SECTIONS INVOLVED

Industrial Disputes Act, 1947 - Section 2,
Industrial Disputes Act, 1947 - Section 2(k)**I. Introduction**

The case of Gulab Singh and Satya Pal vs. Indian Express newspaper is a significant legal battle that revolves around the dispute between two workmen and the management of the newspaper regarding their job designations and duties. The workmen contended that they were performing the responsibilities of proof-readers but were not recognized as such by the company. Despite being mentioned as copy holders in official orders, they were allegedly assigned proof-reader tasks. This led to a heated dispute, which caught the attention of the Delhi Union of Journalists and the Delhi Administration, who referred the matter to the Industrial Tribunal in Delhi. The case involves crucial questions of jurisdiction and espousal of disputes by trade unions. The central contention lies in whether the union's resolution and initiation of conciliation proceedings constitute espousal of the workmen's dispute. Additionally, the court delves into whether a union, not exclusively composed of workmen from the same establishment, can validly sponsor the cause of individual workmen.

II. FACTS OF THE CASE

- A. Gulab Singh and Satya Pal were employed by Indian Express newspaper in December 1956 and 1955 respectively as copy holders. Both workmen contended that they were performing proof-reader duties but not treated as such by the company. In July 1959, the company mentioned them as copy holders in its orders but allegedly assigned them the tasks of proof-readers.
- B. Dispute arose between workmen and management regarding their designation and duties.
- C. Delhi Union of Journalists and Delhi Administration referred the dispute to the Industrial Tribunal, Delhi, in response to the workmen's claim. The

management argued that it was an individual dispute, not an industrial dispute, hence the tribunal had no jurisdiction.

- D. Tribunal considered oral evidence, minutes of a meeting held on November 15, 1960, involving 17 working journalists, and minutes of a meeting of the Executive Committee of the Delhi Union of Journalists held on December 1, 1960. Union claimed that the dispute was espoused as an industrial dispute since an appreciable number of workmen participated in the meetings.
- E. Tribunal rejected the union's contention, stating that only 17 out of 68 workmen cannot be considered an appreciable number to convert the dispute into an industrial one. Tribunal observed that no substantial steps were taken after the resolution for espousal. Tribunal considered the second document involving the resolution of the union's Executive Committee, stating that 31 working journalists of the newspaper had become union members. Tribunal found no direct nexus between the dispute and the union as many working journalists joined the union after the cause of action arose in July 1959.
- F. Aggrieved by the tribunal's judgment, the union obtained special leave from the Supreme Court.

III. Contention of the appellant/union

- A. The union contended that the resolution passed by it espousing the dispute also that it has initiated conciliation was enough to convert the present dispute into industrial dispute.

IV. Contention of the respondent/ Indian Express newspaper

- A. The dispute prima facie is an individual dispute.
- B. Secondly Espousal by a union is regarded as sufficient, for that means

that it is an espousal by an appreciable number of workmen in that establishment. If such a dispute is espoused by an outside union, the workmen of the establishment, appreciable in number, must be members of such a union. This requirement is absent in the present case

V. ISSUES

- A. Whether or not the dispute of two workmen was Espoused by Delhi Union of Journalists? if so, whether it did in time, and
- B. whether the union not being exclusively a union of the workmen employed in the respondent company, could espouse the said cause.

VI. JUDGEMENT

- A. The first question taken by the court was that whether or not the union has espoused the dispute and if it did whether it was done in time or not? The court said that the fact that resolution was passed by the union and the union authorities initiated the conciliation proceeding means that the union had espoused the cause of the two workmen. When the dispute arose in July 1959 after that the workman made their representation to the union which then initiated the proceeding in response to the representation.
- B. The court said that the test was clearly laid down in the case of Bombay Union of Journalists v. The Hindu⁷⁵², Bombay that the test of an industrial dispute is whether at the date of the reference the dispute was taken up and supported by a union, or by an appreciable number of workmen. The court said both the present facts covers both the condition and it cannot be said that espousal by the union was beyond time.

- C. The next question is whether the cause of a workman in a particular establishment in an industry can be sponsored by a union which is not of workmen of that establishment but is one of which membership is open to workmen of other establishments is that industry. The court first referring to Central Provinces Services Ltd v. Raghunath Gopal Patwardhan⁷⁵³ said that the meaning of industrial dispute is “a dispute between an employer and a single workman cannot be an industrial dispute, (2) it can be an industrial dispute, and (3) it cannot per se be an industrial dispute but may become one if taken up by a trade union or a number of workmen.”
- D. Then the court took into consideration the case of Bombay Union of Journalists v. The Hindu⁷⁵⁴, Bombay where a person working in ‘The Hindu, Madras’ was terminated for claiming as full-time employee. The Bombay Union of Journalist raised the dispute. It was found that, there were ten employees of which seven in administrative side and only three in journalism side. Of these three, only two were the members of the union. The court in this case held that Bombay union of journalist was not a competent union to raise the dispute.
- E. However, then court said that in the case of Workmen v. M/s. Dharampal Premchand⁷⁵⁵, supreme court examined previous rulings and made a distinction from the Hindu, Bombay case. It was established that a dispute raised by an individual worker cannot be considered an industrial dispute under Section 2(k) of the Act unless it is endorsed by either their union or, in the absence of a union, a group of workers. Additionally, it was determined that a dispute can be validly

⁷⁵³ Central Provinces Services Ltd v. Raghunath Gopal Patwardhan, AIR 1957 SC 10

⁷⁵⁴ Bombay Union of Journalists v. The Hindu, 1962 (3) SCR 893

⁷⁵⁵ Workmen v. M/s. Dharampal Premchand, AIR 1966 SC 182

⁷⁵² Bombay Union of Journalists v. The Hindu, 1962 (3) SCR 893

raised by a minority union representing the workers of an establishment. Furthermore, if there is no union in a particular establishment, a group of employees can raise a dispute that qualifies as an industrial dispute, even if it pertains to an individual worker. Lastly, in cases where the workmen of an establishment do not have their own union but have joined a union from another establishment within the same industry, if that union can demonstrate a representative character, their support would transform the dispute into an industrial dispute.

- F. The court concluded that if it considers the total number of working journalists in the respondent company to be 68, the union would acquire a representative character if 31 of those working journalists were members of the union. Even if the total number of working journalists were 131, it would still be reasonable to argue that 31, approximately 25 percent of them, would provide the union with a representative character by joining. It is evident from the evidence presented that there was no existing union for the working journalists employed by the respondent company at that time. Therefore, based on the ruling in the case of *Workmen v. M/s. Dharampal Premchand*⁷⁵⁶, it can be stated that the union indeed possessed a representative character concerning the working journalists employed by the respondent company.
- G. There is no doubt that the union supported the two workers by passing a resolution through its executive committee and subsequently taking the matter to the Conciliation Officer. Although the grievance of the two workers arose in July 1959 when the

management refused to recognize them as proof-readers.

VII. CONCLUSION & WAY FORWARD

It's no denying that individual dispute is frequent and to deny the rights to the individual workmen just on the basis that they are not a member of any union or their issue has not been espoused by any union is very opposite to the socio-economic aim of the IDA 1947. This case provided a strong basis for this and has become a landmark judgement in this sense. The legislature has taken note of this and had inserted section 2a by an amendment in 1965.

Section 2A of the Industrial Disputes Act, 1947 states that the dismissal, discharge, or termination of an individual workman is deemed to be an industrial dispute if it is connected with or related to any change made by the employer in respect of any conditions of employment of the workman. In simpler terms, if an employer takes action against an individual worker such as dismissing or terminating their employment, and this action is linked to changes made by the employer regarding the workman's employment conditions, it will be treated as an industrial dispute under Section 2A.

This provision recognizes that an individual workman's dismissal or termination can have implications beyond the individual worker and can be connected to broader employment conditions and policies. By deeming such cases as industrial disputes, the Act aims to provide a mechanism for resolving conflicts and disputes arising from individual dismissals that have wider implications for the workforce or employment conditions as a whole. With that being said it can be assured that now the act has strengthened itself and can discharge its socioeconomic aim more efficiently.

VIII. RELATED CASES

- I. *Bombay Union of Journalists v. The Hindu*, 1962 (3) SCR 893

⁷⁵⁶ *Workmen v. M/s. Dharampal Premchand*, AIR 1966 SC 182



- II. Central Provinces Services Ltd v. Raghunath Gopal Patwardhan, AIR 1957 SC 10
- III. Workmen v. M/s. Dharampal Premchand, AIR 1966 SC 182
- IV. Workmen of Dimakuchi Tea Estate v. The Management of Dimakuchi Tea Estate, AIR 1958 SC 353

