PETITIONER:
MEENGLAS TEA ESTATE

Vs.

RESPONDENT:
ITS WORKMEN

DATE OF JUDGMENT:
22/02/1963

BENCH:
HIDAYATULLAH, M.
BENCH:
HIDAYATULLAH, M.
GAJENDRAGADKAR, P.B.
SHAH, J.C.

CITATION:
1963 AIR 1719 1964 SCR (2) 165
CITATOR INFO :
D 1967 SC 122 (20)
RF 1968 SC 236 (9)

ACT:
Industrial Dispute--Requirements of valid inquiry--Principles of natural justice--Practice of Supreme Court not to enter into evidence to find facts for itself--Case of no evidence.

HEADNOTE:
In January, 1956, there was an incident in which a group of workmen assaulted the Manager and two Assistant Managers of tile appellant company. All the three officers Were Wounded. Some workmen were suspended, and charge-sheets were served on them, charging them with participation in the riot. After an inquiry the workmen were dismissed. The inquiry was held by the Manager and one of the Assistant Managers,During the inquiry, no witness was examined and no statement made by any witness was tendered in evidence.
(1) [1957] S. C. R. 779,
166
The dispute was first referred to the Labour Court and then to the Industrial Tribunal, West Bengal. The Tribunal set aside the inquiry held by the appellant company and asked the company to prove the allegations against each workman de novo before it. The company examined five witnesses. The Tribunal held that orders for dismissal of 15 workmen were justified but it ordered the remaining workmen to be reinstated. The company came to this Court by special leave.
Held, that the view of the Tribunal was correct that the inquiry made by the company was not in accordance with the principles of natural justice. The inquiry consisted of putting questions to each workman in turn. No witness was examined in support of the charge before the workman was questioned. It is an elementary principle that a person who is required to answer a charge must not only know the accusation but also the testimony by which the accusation is supported. He must be given a clear chance to hear the evidence in support of the charge and to put such relevant questions by way of cross-examination as he desires. He

must also be given a chance to rebut the evidence led against him.
As regards two workmen, this Court held that the Tribunal was justified in not accepting the findings which proceeded almost on no evidence. As regards one workman, this Court held that as the Tribunal had the opportunity of hearing and seeing the two Assistant Managers, this Court would be slow to reach a conclusion different from that of the Tribunal. Moreover, in such cases, it is not the practice of this Court to enter into evidence with a view to finding facts for itself.

JUDGMENT:
CIVIL APPELLATE JURISDICTION: Civil Appeal No. 359 of 1962.
Appeal by special leave from the Award dated April 3, 1961 of the Seventh Industrial Tribunal, West Bengal, in Case No. VIII-303 of 1960.
B.Sen, S.C. Mazumdar, D. N. Mukherjee for B. N. Ghosh, for the appellant.
Janardhan Sharma, for the respondents.
1963. February 22. The judgment of the Court was delivered by
HIDAYATULLAH J.---By this appeal filed with the special leave of this Court, by the Meenglas Tea
167
Estate against its Workmen the Company seeks to challenge an award dated April 3 , 1961, pronounced by the Seventh Industrial Tribunal, West Bengal. The order of reference was made by the Government of West Bengal as far back as October 29, 1957, in respect of the dismissal of 44 workmen. The issue which was referred was as follows:-
"Whether the dismissal of the workmen mentioned in the attached list is justified ? What relief by way of reinstatement and/or compensation are they entitled to?"
From November 5, 1957, to August 17, 1960, this reference remained pending before the First Labour Court. It was then transferred to the Seventh Industrial Tribunal and the letter made the impugned award on April 3, 1961. By the time the award was made two of the workmen (Nos. 12 and 37) had died and four had been reemployed (Nos. 31, 33, 34 and 35). One of the workmen (No. 22) was not found to be a workman at all. The Tribunal held that the orders of dismissal of fourteen workmen were justified though retrospective effect could not be given to the orders. The Company was ordered to re-instate the remaining workmen and to pay them compensation in some cases (but not all) amounting to three months' wages. In the present appeal the Company seeks to challenge the award regarding 13 of those workmen who have, been ordered to 'be reinstated. of these workmen the cases of three fall to be considered separately and those of the remaining ten can be considered together. We shall now give the facts from which the reference arose.
The appellant Meenglas Tea Estate in Jalpaiguri District of West Bengal is owned by Dun-can Brothers Ltd. The workers belong to the Zilla Chabagan Workers' Union, Malbazar, District
168
jalpaiguri. On January 18, 1956, there was an ugly incident in which a group of workmen assaulted the Manager, Mr. Marshall and his two Assistant Managers Mr. Nichols and Mr. Dhawan. This happened one morning in a section of the tea gardens where about two hundred workmen had surrounded Mr. Nichols and were making a violent demonstration. First Mr.

Dhawan and soon after Mr. Marshall arrived on the scene and the workmen surrounded them also. In the assault that followed these three officers were wounded Mr.Marshall seriously. A criminal cage was started against some of the rioters but we are not concerned with it. The Company also started proceedings against some workmen. It first issued a notice of suspension which was to take effect from February 6, 1956, and then served charge-sheets on a large number of workmen charging them with participation in . the riot. The Work men replied denying their complicity. The Company then held enquiries and ordered the dismissal of a number of workmen with effect from January 18, 1956. A sample order of dismissal is exhibited as annexure F in the case. In the enquiry before the Tribunal the Union admitted the incident though it said that it was caused by provocation on the part of the Management. The Union, however, denied that any of the workmen who were charged was concerned in the affray pointing out that none of these workmen was prosecuted by the police. The enquiry was held by Mr., Marshall and Mr. Nichols and the record of the proceedings is marked Exhibits 17 and 18 series. That record was produced before us by the appellant for our perusal. It was admitted before us that there was no further record of evidence for the Company as none was recorded. Exhibit 17 and 18 series are the answers of the workmen to the charges against . them and such replies as they gave to questions put -to them in cross-examination,

169

The Tribunal held that the enquiry was vitiated because it was not held in accordance with the principles of natural justice. It is contended that this conclusion was erroneous. But we have no doubt about its correctness. The enquiry consisted of putting questions to each workman in turn. No witness was examined in support of the charge before the workman was, questioned. It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way of cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of an enquiry of this character and this requirements must be substantially fulfilled before the result of the enquiry can be accepted. A departure from this requirement in effect throws the burden upon the person charged to repel the charge without first making it out against him. In the present case neither was any witness examined nor was any statement made by any witness tendered in evidence. The enquiry, such as it was, was made by Mr. Marshall or Mr. Nichols who were not only in the positionof judges but also of prosecutors and witnesses. There Was DO opportunity to the persons charged to cross-examine them and indeed they drew upon their own knowledge of the incident and instead cross-examined the persons charged. This was such a travesty of the principles of natural ,justice that the Tribunal was justified in rejecting the findings and asking the Company to prove the allegation against each workman de novo before it.

In the enquiry which the Tribunal held the Company examined five witnesses including Mr. Marshall, Mr. Nichols and Mr. Dhawan, who were the eye-witnesses. In view of the fact that the

170

enquiry was being made into an incident which took place

four and a half years ago the Tribunal in assessing the evidence held that it would not accept that any workman was incriminated unless at least two witnesses deposed against him. Some of the workmen got the benefit of this approach and it is now contended that the Tribunal was in error in insisting upon corroboration before accepting the evidence of a single witness. Reference in this connection is made to s. 134 of the Indian Evidence Act (1 of 1872) which lays down that no particular number of witnesses shall in any case be required for the proof of any fact. It is not a question of an error in applying the Evidence Act. It is rather a question of proceeding with caution in a case where admittedly many persons were involved and the incident itself took place a very long time ago. The Tribunal acted with caution and did not act upon uncorroborated testimony. It is possible, that the evidence against some of the persons to whom the benefit has gone, might be cogent enough for acceptance, but the question is not one of believing a single witness in respect of any particular workman but of treating all workmen alike and following a method which was likely to eliminate reasonably chances of faulty observation or incorrect recollection. On the whole, it cannot be said that the Tribunal adopted an approach which made it impossible for the company to prove its case. It followed a standard which in the circumstances was prudent. We do not think that for this reason an interference is called for. Since no other point was argued the appeal of the Company in respect of the ten workmen, who were alleged to be concerned in the occurrence of January 18, 1956, must be dismissed.

This brings us to the consideration of the three special cases. They concern Dasarath Barick (No. 25), Lea Bichu (No. 26) and Nester Munda (No. 27). Dasarath Barick was said to have threatened the

171

loyal workers and to have prevented them from work on March 15, 1956. Lea Bichu was said to have forced the chowkidar to hand over the keys of the gate to him on the same day and to have locked the gate with a view to hampering the movement of workmen. The Tribunal held that the enquiry in both the cases was not a proper enquiry and the conclusion was not acceptable. Here, again no witness was examined in the enquiry to prove the two occurrences and even before the Tribunal there was no evidence against them except the uncorroborated testimony of Mr. Mar-shall. No worker was examined to prove that he was threatened by Dasarath Barick or to show that it was Lea Bichu who had taken the keys from the chowkidar and locked -the gate. In view of these circumstances the Tribunal was justified in not accepting the findings which proceeded almost on no evidence. We agree with the Tribunal that no case was made out before the Tribunal for the dismissal of Dasarath Barick and Lea Bichu.

The last case is of Nester Munda who is the Secretary of the Union.,' It was alleged against him that on, January 16, 1956, he had abused Mr. Nichols and had demonstrated at- the head of a hostile group of workmen. Here, again, no proper enquiry was held and the conclusion reached at the enquiry by the Company was not acceptable. The Tribunal, therefore, enquired into the case for itself. Mr. Nichols and Mr. Dhawan gave evidence which the Tribunal was not prepared to accept. It pointed out that their testimony conflicted on vital points. Since the Tribunal had the opportunity of hearing and seeing Mr. Nichols and Mr. Dhawan we should be slow to reach a conclusion different from that of the Tribunal. In addition, in such cases, it is not the practice of this Court to enter into evidence with a view to

finding facts for itself. Following this well settled practice we see no reason
172
to interfere with the conclusion of the Tribunal.
The result is that the appeal fails and is dismissed with costs.
Appeal dismissed