

REYNOLDS v K

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THE HIGH COURT

8693P/1985

BETWEEN: -

JOHN REYNOLDS AND OTHERS

PLAINTIFFS

AND

PATRICK KAVANAGH

DEFENDANTS

Judgment of Mr. Justice Costello delivered the 11th November
1985

The seven plaintiffs in these proceedings are all members of the Irish Transport and General Workers' Union and employed as production workers in Veba Ltd., a firm which carries on business in the town of Wicklow. They claim that their Union has been acting in breach of the Union rules and furthermore contrary to the terms of an express agreement made between a Union official and certain members of the work force, in both instances by failing to hold a secret ballot of its members in relation to a trade dispute which has arisen in their firm. The matter comes before me on foot of an application for a number of interlocutory injunctions which are sought pending the hearing of this action.

There are about 160 production workers and 30 clerical workers employed by Veba Ltd. All the work force are represented by the Defendant Union (with the exception of a small number of fitters). A trade dispute arose in the clerical section of the firm by reason of three proposed redundancies effected by management. The clerical workers voted to take strike action and pickets were placed on the factory premises on the 24th June, 1985. Before this had happened, however, a general meeting of the entire work force was held on the 17th June. This was attended by Mr. Mulready an official of the Defendant Union who explained the background of the dispute to the meeting. According to the Plaintiffs' evidence (which the defendants have not denied) Mr. Mulready stated in the course of his explanation to the meeting that the dispute did not at that time concern the factory workers but if their support was required "a meeting in the factory would be held and a secret ballot would be held among the remaining work force". A further general

meeting was held on the 17th July, 1985. Amongst others, this was attended by Mr. Patrick Rabbitte, the National Group Secretary of the Industrial Group Number 2, a group which comprises White Collar Grades. A difference of recollection exists as to what occurred at that meeting but it is agreed that a motion was adopted by a large majority to the effect "that we support the clerical workers". Mr. Rabbitte regarded this motion as a decision by the meeting to favour an application for an "all-out" picket. The plaintiffs do not agree. The clerical workers were still on strike but the production workers were then passing the picket.

The distinction between an "all-out" picket and an "all-out" strike is at the core of the present dispute between the plaintiffs and their Union. Rule 128 of the Union's Rules provides that

"no decision for the taking of strike action by members shall be taken except by a ballot being held; the vote shall be by secret ballot and subject to the provisions of Rule 10 the Branch Secretary shall be responsible for organising any arrangements necessary for holding the ballot vote".

This rule meant that before the production workers of Veha Ltd could be obliged to take strike action a secret ballot arranged by the Branch Secretary would have to take place. An "all-out" picket is the term well-known to all trade unionists and to most members of the public applied to a picket authorised by the Industrial Relations Committee of the Irish Congress of Trade Unions. If authority was obtained for such a picket then the production workers of Veha would be required not to pass the picket maintained by the clerical workers. In each case a withdrawal of labour by the production workers was called for, in one case on the authority of a secret ballot of the

workers themselves, in the other on the authority of the Industrial Relations Committee of Congress.

The plaintiffs believed from what they were told by the officials of their Union that no action would be required of them in support of the clerical workers until a secret ballot had been held. There is evidence to suggest that this was the view also of Mr. Kavanagh the secretary of the Union's Wicklow Branch for at a meeting of union officials and shop stewards on the 29th July he arranged to hold a secret ballot amongst the production workers on the issue of strike action by them, a course he would not have embarked upon had he believed that a decision by the production workers to authorise an application to I.C.T.U. for an "all-out" picket had already been taken. Ballot papers were distributed to shop stewards for a ballot on the 30th July, but for reasons which have not been explained in the affidavits filed by the defendants the ballot was cancelled following a telephone call by one of the shop stewards to the Union's head office in Dublin.

On the 2nd August the factory closed for annual holidays. It was due to re-open on the 20th August. Prior to that date the local radio carried a news item which was heard by at least some of the plaintiffs to the effect that there would be an "all-out" strike at the plant on the 20th. In fact this was incorrect. What had happened was this. Following the meeting of the 17th July which, it will be recalled, Mr. Rabbitte had understood had taken a decision to authorise an application to I.C.T.U., Mr. Rabbitte on behalf of the clerical workers had applied for an "all-out" picket, an application which was granted on the 7th August by the Industrial Relations Committee. As the work force was on holidays this authorisation was not

acted upon until the 20th August. Due to the existence then of an "all-out" picket the vast majority of the production workers refused to pass the picket and, in effect, withdrew their labour.

A combination of factors caused the plaintiffs to misunderstand the situation. Their recollection was (and it is not necessary for me to decide on this interlocutory motion whether or not it was correct) that Mr. Rabbitte had told the meeting when the question of a secret ballot was raised that the Union had power to bring out the workers on strike regardless of the outcome of a secret ballot. They knew that a decision had been taken to hold a secret ballot and then subsequently rescinded. They wrongly assumed that they had been called out on strike by their Union. But this was not so. No strike by the production workers had been called for and none is now contemplated. The claim based on a breach, actual or threatened on the Union's Rules cannot be sustained.

It is urged that the plaintiffs are entitled to the relief they now claim because of an express enforceable agreement to hold a ballot which it is claimed is established by the evidence. I cannot agree. All that the Plaintiffs evidence establishes is (a) that a union official (Mr. Mulready) stated at a meeting on the 17th June (that is, at an early stage of the dispute) that if the support of the production workers was required that a meeting would be held in the factory and a secret ballot of factory workers arranged, and (b) that the Branch Secretary took steps under Rule 128 to hold such a ballot and then abandoned them. At most the evidence suggests that a statement was made at a meeting as to the Union's future intentions, but it falls far short of establishing that a fair

question as to the existence of a contract (let alone, an enforceable contract) has been raised.

The plaintiffs motion claims firstly a mandatory injunction directing the Defendant Union to take the steps necessary to hold a secret ballot under Rule 128 of its Rules. But no basis has been established which would justify the Court's intervention in the Union's internal affairs; in particular, as no strike by the production workers is contemplated no necessity to direct compliance with this Rule has been shown to exist. Because no breach of the Rules in relation to the handling of the trade dispute has been shown to have occurred or to be threatened the injunctive relief claimed under paragraphs (b) and (c) of the Notice of Motion must also be refused. There is nothing to suggest that disciplinary action will be taken against the plaintiffs so I will adjourn generally this part of the motion and give the plaintiffs liberty to re-enter it should they apprehend that a breach of their rights may occur.

Approved
13-11-85