Michigan Law Review

Volume 39 | Issue 8

1941

ADMINISTRATIVE LAW - DOCTRINE OF PRIOR RESORT - RESORT TO THE RAILWAY ADJUSTMENT BOARD BEFORE COURT SUIT

Felicia I. Hmiel
University of Michigan Law School

RECENT DECISIONS

ADMINISTRATIVE LAW — DOCTRINE OF PRIOR RESORT — RESORT TO THE RAILWAY ADJUSTMENT BOARD BEFORE COURT SUIT — In 1937 the Louisville and Nashville Railroad Company, a party to a collective bargaining agreement which protected the seniority rights of the company's employees, rehired one of its old employees and put his name on the seniority list ahead of those of the plaintiffs, who were hired in 1924. For breach of the agreement the plaintiffs brought suit in the Georgia court without first applying for relief to the National Railway Adjustment Board, which has jurisdiction over disputes relating to the interpretation and application of such agreements. *Held*, that the jurisdiction of the board does not prevent recourse to the courts in the first instance. *Evans v. Louisville & Nashville R.R.*, (Ga. 1940) 12 S. E. (2d) 611.

The doctrine of prior resort [1] in administrative law is a judicial doctrine based on two considerations. First, the administrative agency, being an expert body, is more competent to deal with the problem effectively and uniformly.[2] Second, as a matter of comity, courts will not interfere with the legislative or administrative branches of government until they have completed their functions.[3] The doctrine is followed by both state [4] and federal courts,[5] but there are various exceptions to it. Prior resort is unnecessary when the commission refuses to act,[6] or where the administrative remedy is inadequate.[7] In the absence of express or implied statutory requirements, the courts will invoke the doctrine where the issue involved is highly technical and intricate.[8] Any

[1] The doctrine makes resort to an administrative tribunal having jurisdiction over the particular subject matter a condition precedent to any consideration of the subject matter by the courts.

[2] 51 HARV. L. REV. 1251 at 1253 (1938); 27 COL. L. REV. 450 at 452 (1927); Texas & Pacific Ry. v. Abilene Cotton Oil Co., 204 U. S. 426, 27 S. Ct. 350 (1907); Board of Railroad Commissioners of North Dakota v. Great Northern Ry., 281 U. S. 412 at 422, 50 S. Ct. 391 (1930).

[3] 51 HARV. L. REV. 1251 at 1253 (1938).

[4] Application of Lowell Cab Corp., 170 Misc. 866, 11 N. Y. S. (2d) 497 (1939); Domanick v. Triboro Coach Corp., 259 App. Div. 657, 20 N. Y. S. (2d) 306 (1940); Shaup v. Grand International Brotherhood of Locomotive Engineers, 223 Ala. 202, 135 So. 327 (1931).

[5] Joel v. Rosseter, (D. C. Cal. 1936) 15 F. Supp. 914; United States v. Illinois Central R. R., 291 U. S. 457, 54 S. Ct. 471 (1934); Myers v. Bethlehem Shipbuilding Corp., 303 U. S. 41, 58 S. Ct. 459 (1938).

[6] Smith v. Illinois Bell Telephone Co., 270 U. S. 587, 46 S. Ct. 408 (1926).

[7] Union Pacific R. R. v. Board of Commissioners of Weld County, Colorado, 247 U. S. 282, 38 S. Ct. 510 (1918) (the effect of the statute providing for the administrative remedy was uncertain and debatable, and the state court had not yet passed on it); Kansas City Southern Ry. v. Ogden Levee District, (C. C. A. 8th, 1926) 15 F. (2d) 637 (to correct an erroneous and unjust tax assessment; no hearing before the commission was provided for by the statute).

[8] Board of Railroad Commissioners of North Dakota v. Great Northern Ry., 281 U. S. 412 at 422, 50 S. Ct. 391 (1930); Great Northern Ry. v. Merchants' Elevator Co., 259 U. S. 285 at 291, 42 S. Ct. 477 (1922).

other rule would nullify the reason for creating the administrative board, since the express purpose for its establishment is to provide an expert body to deal with technical questions. Where the problem presented is one of law, it is more likely that courts will take jurisdiction without requiring prior resort.[9] Where equitable relief is asked, the court in considering the adequacy of the legal remedy takes into account the administrative remedy. Therefore, the doctrine is more likely to be applied in equity cases than at law.[10] The state courts often disregard the doctrine because the state constitutions provide for their jurisdiction in detail.[11] The statute creating the agency may in express or implied terms make prior resort a condition precedent to court relief.[12] In the principal case, the Railway Adjustment Board was invested with jurisdiction to adjudicate contract rights as between employer and employees, but the statute did not make the board's jurisdiction exclusive. If the statute had so provided, the problem would have been avoided.[13] Although in the instant case the controversy involves the interpretation of a contract, usually a legal problem, it also involves a special type of contract—a collective bargaining agreement—and thus, by the terms of the statute, the board should decide the dispute.[14] Therefore, the result not only seems contrary to the judicial doctrine of prior resort, but by preventing speedy and amicable settlement of labor disputes, it nullifies the Congressional purpose in establishing the Railway Adjustment Board.[15]

Felicia I. Hmiel

[9] 35 COL. L. REV. 230 at 233 (1935); Barone v. Aetna Life Ins. Co., 260 N. Y. 410, 183 N. E. 900 (1933); Duncan v. People ex rel. Moser, 89 Colo. 149, 299 P. 1060 (1931); Great Northern Ry. v. Merchants' Elevator Co., 259 U. S. 285, 42 S. Ct. 477 (1922).

[10] United States v. Illinois Central R. R., 291 U. S. 457, 54 S. Ct. 471 (1934). A great number of the cases in court which deal with subject matter within the jurisdiction of the agency involve a prayer for equitable relief. The adequacy of an administrative remedy should preclude such relief.

[11] Barone v. Aetna Life Ins. Co., 260 N. Y. 410, 183 N. E. 900 (1933).

[12] Where the statute gives the agency exclusive jurisdiction, courts will make prior resort a condition precedent. United Employees Assn. v. National Labor Relations Board, (C. C. A. 3d, 1938) 96 F. (2d) 875.

[13] 48 Stat. L. 1189 at 1191, § 3 (i) (1934), 45 U. S. C. (1934), § 153 (i).

[14] The fact that contract rights are involved does not necessarily preclude prior resort as a condition precedent. 51 HARV. L. REV. 1251 at 1257 (1938); Armstrong v. United States, (C. C. A. 8th, 1926) 16 F. (2d) 387. The contract rights in the principal case are protected, since before any award of the board may be enforced, resort must be made to the federal district court for a trial on the merits. Cook v. Des Moines Union Ry., (D. C. Iowa, 1936) 16 F. Supp. 810.

Contra: Wooster v. Chicago & N. W. Ry., 167 Wis. 6, 166 N. W. 431 (1918); Chicago City Ry. v. Chicago & W. I. R. R., 331 Ill. 151, 162 N. E. 852 (1928). Here the Railway Labor Act expressly gives the board jurisdiction over contracts, and in the above cases there is no such jurisdiction given.

[15] Brotherhood of Railroad Shop Crafts of America, Rock Island System, Grand Lodge No. 3 v. Lowden, (C. C. A. 10th, 1936) 86 F. (2d) 458.