

BEFORE THE MEMBER, INDUSTRIAL TRIBUNAL AT SATARA

Reference (IT)No.4 of 2016

Godrej & Boyce Mfg. Co. Ltd. . First Party

V/s.

Shivkranti Kamgar Sanghatana . Second Party

-: ORDER BELOW EXH.C-3 :-
(08.11.2017)

First party has filed this application for framing preliminary issue stating that the second party has filed statement of claim along with an Annexure mentioning the members of its union. The first party has contended that the employees mentioned in Annexure A are appointed in managerial cadre and hence they are not workmen within the meaning of Section 2(s) of I.D.Act. They were accepted all terms and conditions of salary structure admissible in the said managerial cadre. The second party employees are employed in the managerial cadre and designated as Sr. Technical Staff Associates/Asstt.Officer/Associate Officers. During the entire tenure of the service the second party employees were entitled to enjoy the status, privileges and benefits applicable to personnel employed in the managerial, administrative and supervisory category in the organizational set up of the company. The second party employees received

the benefits mentioned in Pg.No.7, 8, & 9. Therefore, the second party is not workmen within the meaning of Section 2(s) of I.D.Act and prayed to frame preliminary issue. Lastly prayed to allow this application.

2. The second party has filed say to the said application at Exh.U-5 and denied the contention of the first party. The employees named in Annexure A have never been employed in the managerial cadre as alleged by the first party or even at all. Though the first party has designated the employees named in Annexure-A as Senior Technical Staff Associate/Assistance Officer/Associate Officer etc. each of them is performing the work of manual skilled, technical or of operational nature. The first party has created the picture of employees named in Annexure-A are working in managerial cadre. All the employees mentioned in Annexure-A are workmen within the meaning of Section 2(s) of the I.D.Act. Therefore, the present dispute is maintainable before this court.

3. Heard both sides. Learned counsel for the first party has submitted that the employees mentioned in Annexure-A are not workmen within the meaning of

Section 2(s) of I.D.Act and filed certain documents on record and other relevant policies framed by the company i.e. revised remuneration package, management remuneration package of every worker therefore they are not workmen and hence this proceeding is not maintainable before this court and prayed to frame preliminary issue on maintainability.

4. Learned counsel for the second party has argued that all the employees mentioned in Annexure-A are working their work manually. They are not having any supervisory authority and power to grant leave of any subordinate or issue show cause notice to the subordinate. Therefore, they are workmen.

5. Both the sides have cited relevant case laws. In one judgment of **Enercon (India) Ltd. Vs. Kishor B. Patel & ors., 2013 II CLR 308,** Hon'ble Bombay High Court observed that, "*order of making a reference is an administrative order and at the stage the merits of the respective cases is not gone into. It is therefore, the Tribunal, which undoubtedly has to address the jurisdictional issue which has been raised before it and thereafter embark upon the exercise of considering the application for interim relief.*"

6. Learned counsel for the second party has relied upon the judgment of D.P.Maheshwari Vs. Delhi Admn and others in Civil Appeal No.3844 (NL) of 1983. "When an application u/s 9A of C.P.C.for preliminary issues filed by any of the parties, it is required to be decided first." Therefore, I am of the opinion that preliminary issue is required to be framed and decided. Hence I pass the following order.

: **ORDER** :

- 1) Application is allowed.
- 2) Preliminary issue be framed at Exh.C-3 as follows.

"Whether the staff members mentioned in Annexure-A are workman ?"
- 3)The parties are hereby directed to submit their evidence on 15th November 2017 itself. Failing which, the issue shall be decided on the basis of available documents in the proceeding.

Sd/-

Place : Satara.

(Dr.Yeshwant Chaware)

Member,

Date: 08.11.2017.

Industrial Court, Satara.