

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11681 OF 2014

Tata Yazaki Employees Union (Now Yazaki
India Employees Union) ... Petitioner
Vs.
Tata Yazaki Auto Comp. Ltd. (Now Yazaki
India Limited) ... Respondent

Mr. Rahul Nerlekar for Petitioner.
Mr. K. M. Naik, Senior Advocate i/b. Mr. Sujeet P. Salkar for
Respondent.

CORAM : R. G. KETKAR, J.
DATE : FEBRUARY 4, 2015

P.C.:

Heard Mr. Nerlekar, learned Counsel for petitioner and Mr. Naik,
learned Senior Counsel for respondent at length.

2. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner-Union has challenged the judgment and order dated 09.04.2014 passed by the learned Member, Industrial Court, Pune (for short 'Tribunal') in Complaint (ULP) No.12 of 2007. By that order, the Tribunal dismissed the complaint filed by the petitioner under Item 9 of Schedule IV of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short 'Act').

3. In support of this Petition, Mr. Nerlekar submitted that on 30.09.2004, first settlement was signed by and between the respondent and the petitioner-union. This settlement covered permanent workmen in the respondent in the year 2004. On 09.04.2005, second settlement was entered into between the petitioner and the respondent which covered trainees and temporaries. On 20.09.2006, award was made in terms of the first settlement dated 30.09.2004. In the meantime, in terms of the second

settlement dated 09.04.2005, the trainees and temporaries were confirmed with effect from 01.04.2005. He submitted that the award dated 20.09.2006 was published on or about 03.12.2006 and became enforceable with effect from 03.01.2007. He submitted that in view of Section 18(3)(d) of the Industrial Disputes Act, 1947 (for short 'I.D. Act'), the trainees and temporaries, who were covered by the second settlement dated 09.04.2005 are entitled to the benefits flowing from the award made on 20.09.2006.

4. On the other hand, Mr. Naik submitted that the petitioner and respondent entered into second settlement on 09.04.2005. That settlement covered only trainees and the temporaries whose names were stipulated in Annexure I to the settlement. The parties agreed that the workmen covered by Annexure I to the settlement will not be entitled to any other monetary benefits as applicable under the settlement dated 30.09.2004 for the workmen, who are working as permanent workmen prior to the date of the settlement and covered by the reference. He submitted that Section 2(b) of the I.D. Act defines the expression "award" to mean an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal and includes an arbitration award made under Section 10-A. In other words, he submitted that there has to be final determination of any industrial dispute or of any question relating thereto by the authorities specified in Section 2(b) of the I.D. Act. In the present case, the award was made on 20.09.2006 on the basis of the settlement dated 30.09.2004 and there was no final determination on merits. He, therefore, submitted that since the award was not made on merits, the petitioner-union cannot claim any benefit more so in view of Clause 4 of the second settlement dated 09.04.2005.

5. I have considered the rival submissions made by the learned Counsel appearing for the parties. The short question that falls for consideration is whether the trainees and temporaries whose names were

included in Annexure I to the settlement dated 09.04.2005 and who were confirmed in the service with effect from 01.04.2005 are entitled to the benefit of the award dated 20.09.2006 in view of Section 18(3)(d) of the I.D. Act.

6. In my opinion, a fairly arguable case is made out. Hence, **Rule.** Mr. Salkar waives service for respondent. Call for R & P.

7. As far as interim relief is concerned, Mr. Naik, upon taking instructions from Mr. Milind Kulkarni, Deputy General Manager - HR of respondent, states that the trainees and the temporaries whose names were included in Annexure I to the second settlement dated 09.04.2005 and who were made permanent with effect from 01.04.2005 have also been conferred with the same benefits from 2007.

8. Having regard to the fact that the complaint instituted by the petitioner is dismissed as also having further due regard to the fact that the trainees and the temporaries whose names were included in Annexure I to the second settlement dated 09.04.2005 and who were made permanent with effect from 01.04.2005 have also been conferred with the same benefits from 2007, granting of interim relief will virtually amount to allowing the Petition at this stage. Hence, prayer for interim relief is refused.

(R. G. KETKAR, J.)