

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 351-355 OF 2006

DUNCANS INDUSTRIES LTD.

Appellant (s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(With appln(s) for permission to file addl. Documents and with office report)

WITH

SLP(C) NO. 24555 of 2010

(With office report)

Date: 14/09/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE T.S. THAKUR

For Appellant(s) In CA 351-355 of 2006 and for respondent(s) in SLP 24555/2010	Mr. Shanti Bhushan, Sr. Adv. Mr. K.S. Prasad, Adv. Mr. V.Mukherjee, Adv. Ms. Sampa Sen Gupta, Adv.for Mr. Chanchal Kumar Ganguli, Adv.
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For Respondent(s) In CA 351-355/06 & for petitioner(s) in SLP 24555/2010	Mr. Bharat Sangal, Adv. Mr. Pradeep Misra ,Adv(NP)
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UPON hearing counsel the Court made the following
O R D E R

Leave granted in the special leave petition.

The Appeals are allowed in terms of the signed order. Parties are left to bear their own costs. Needless to say that all contentions available to the parties are left open to be urged before the High Court.

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.351-355 OF 2006

Duncans Industries Ltd.

..Appellant

versus

State of U.P. & Others

..Respondent

WITH

CIVIL APPEAL NO.8023 OF 2010
(Arising SLP(C) No.24555 of 2010)

O R D E R

Leave granted in the special leave petition.

These Appeals arise out of two different orders, one dated 17th September, 2004, and the other order dated 22nd July, 2010, whereby Writ Petition Nos.12468 of 2002 and four connected matters and Writ Petition No.37147 of 1996 have been dismissed by the High Court of Judicature at Allahabad.

The facts giving rise to the filing of the said writ petitions have been set out in the orders impugned and, therefore, need not be repeated by us here. Suffice it to say that Reference No. 11 of 1988 made at the instance of I.E.L. Supervisors' Association was disposed of by the Labour Court by an award dated 29th April, 1999, inter alia, holding that Supervisors and Deputy Superintendents working with the company were workmen within the meaning of section 2(z) of U.P. Industrial Disputes Act, 1947 (for short 'the Act') and hence entitled to the relief claimed by them in the said proceedings.

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Reference No.146 of 1991 also raised the question 'whether Supervisors and Deputy Superintendents were workmen within the meaning of the provisions of the Act' and was disposed of by an award dated 26th September, 1996 holding that the Supervisors and Deputy Superintendents were not workmen and, therefore, not entitled to any relief under the Act.

Aggrieved by the order passed in reference No. 11 of 1988, the Company preferred Writ Petition No. 12468 of 2002 and four connected writ petitions. Similarly, the association which was aggrieved by the view taken by the Labour Court in reference No. 146 of 1991 holding that

Supervisors and Deputy Superintendents were not workmen within the provisions of the Act also filed writ petition No.37147 of 1996 before the High Court. The High Court has by two separate orders, referred to earlier dismissed all the writ petitions. It has in Writ Petition No.12468 of 2002 and four connected writ petitions upheld the award made by the Labour Court holding that Supervisors and Deputy Superintendents are workmen within the provisions of the Act. Writ Petition No.37147 of 1996 filed by the association has, however, been dismissed with the observation that the association ought to have approached the labour court for appropriate relief. The present appeals assail the said orders, as noticed earlier.

Appearing for the appellant-company in Civil Appeal Nos.351-355 of 2006, Mr. Shanti Bhushan, learned senior

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counsel submitted that the Labour Court had, while dealing with the two references, referred to above, taken conflicting views inasmuch as in Reference No. 11/1988, it had held that Supervisors and Deputy Superintendents were workmen under Section 2(z) of the Act, whereas a contrary view was taken in Reference No. 146 of 1991. He argued that the proper course would be to set aside the orders passed by the High Court and remit the matters back to the said Court for a fresh disposal in accordance with law.

Mr. Bharat Sangal, counsel appearing for the association had no objection to the matter being remitted to the High Court for a fresh disposal in accordance with law provided the same is directed to be disposed of at an early date, especially because the controversy has been raging over the past twenty years.

In the circumstances, therefore, and keeping in view the fact that the Labour Court has taken two different views in the two references made to it as regards the status of Supervisors and Deputy Superintendents, we are of the view

that the matters need to be remanded back to the High Court to enable both the sides to argue the matter afresh and also the High Court to examine the issues that arise for determination.

We, accordingly, allow these appeals, set aside both the impugned orders and remit the matters back to the High Court for a fresh disposal in accordance with law. Keeping in view the importance of the issues that arise for

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consideration, we would request the Chief Justice of the High Court to direct placing the matters before a Division Bench. Since, the matters have been lingering on for a long time, we give liberty to the parties to approach the Division Bench for an early hearing and disposal. Parties are left to bear their own costs. Needless to say that all contentions available to the parties are left open to be urged before the High Court.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
SEPTEMBER 14, 2010

.....J.
[T.S. THAKUR]