

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO. 5175 OF 2011**

AJMER VIDYUT VITRAN NIGAM LTD.  
AND OTHERS

APPELLANTS

MADHUSUDAN

VERSUS

RESPONDENT

WITH

CIVIL APPEAL NO. 5176 OF 2011

CIVIL APPEAL NO. 5178 OF 2011

CIVIL APPEAL NO. 5179 OF 2011

**ORDER**

These appeals arise out of an order of the Division Bench of the High Court of Judicature for Rajasthan, Jodhpur Bench, passed in a batch of intra-Court appeals arising out of a common order passed by a learned Single Judge in a batch of writ petitions filed by the respondents herein.

We have heard the learned counsel for the parties.

The brief facts sufficient for the disposal of these appeals are as follows:

- (1) The respondents herein were originally engaged as Helpers

on daily wages in the year 1970. After completion of two years of service, they were brought into the regular establishment. This was in accordance with an award, known as Singh-Sancheti Award.

- (2) In the year 1978-79, the respondents raised an industrial dispute. The dispute was referred to arbitration under Section 10-B of the Industrial Disputes Act, 1947.
- (3) The arbitrators made their award in two stages, the first dated 31.05.1978 and the second dated 15.06.1979.
- (4) The respondents, therefore, raised another dispute, in which the Labour Court passed an award dated 20.11.1995 referring the case of the respondents to a Screening Committee. The operative portion of the award of the Labour Court dated 20.11.1995 reads as follows:

“15.): Therefore, by passing the award it is ordered that the disputed point of the reference is adjudicated to the effect that cases of all the applicants be re-determined by the screening committee under the Singh & Sancheti Award. It is also ordered that this procedure be completed within a period of six months and upon having

found the cases of the applicants suitable by the screening committee, and upon execution thereof, the amounts of benefits be paid, as well as the benefit of service conditions be granted to them within the next three months; otherwise the applicants would be entitled to receive interest @ 12% per annum. Rs. 4000/- is awarded against the expenses of the cases."

- (5) Accordingly, the case of respondents and a few others were referred to the Screening Committee. The Screening Committee held hearings and eventually gave its report on 08.09.1997. By the said report, the Screening Committee admitted the claim of only one employee and rejected the claims of others.
  
- (6) Therefore, those, whose claims were rejected, by the Screening Committee went before the Industrial Tribunal once again claiming that the original award of the Labour Court dated 20.11.1995 was not enforced by the appellant herein. But, by an order dated 18.05.2005, the Industrial Tribunal dismissed the applications on the ground that the original award dated 20.11.1995, did not specifically grant any benefit to the employees, but only referred them to a Screening Committee, and that since the Screening Committee was constituted and report filed, the question of

non-enforceability of the original award did not arise.

- (7) Instead of challenging the order of the Industrial Tribunal dated 18.05.2005, the respondents filed writ petitions in the year 2005/2006, seeking the relief of payment of higher pay scale from the date on which they were regularized.
- (8) The batch of writ petitions so filed by the respondents, were allowed by the learned Single Judge by an order dated 09.04.2008. The appellant-management filed intra-Court appeals against the said order of the learned Single Judge. But by a cryptic non-speaking order, the Division Bench dismissed the special appeals, forcing the appellant-management to come up with the above appeals.

The impugned order of the Division Bench of the High Court reads as follows:

“Heard learned counsel for the appellant.

In our view, learned Single Judge has not committed any error in passing the impugned order. The impugned order does not require any interference in our appellate jurisdiction. The appeals are, therefore, dismissed summarily.”

Though the learned counsel for the appellant is right in her contention that the Division Bench did not consider any of the aspects

and questions raised in the appeals, we do not wish to interfere with the said order on the sole ground that it is a non-speaking order. This is due to the fact that almost a period of more than 30 years had passed from the date on which the original claim arose. Therefore, instead of allowing the appeals on a technicality and remanding the matter back to the Division Bench for a fresh consideration on merits, we shall test the correctness of the order of the learned Single Judge itself.

The reliefs sought by the respondents before the learned Single Judge were as follows:

“(i) the respondents may be directed to fix the petitioner in the regular pay-scale No.4 w.e.f. 1.4.1974 and to revise the same as revised from time to time and pay him entire arrears along with interest @ 12% per annum till actual payment is made.

(ii) the decision of the committee dated 8.9.1997 may also be quashed and set aside.

(iii) the writ petition filed by the petitioner may kindly be allowed with cost; and

(iv) any other appropriate order, or direction, which may be considered just and proper in favour of the petitioner in the facts and circumstances of the case, may also kindly be passed in the interest of justice.”

The writ petitions, as we have pointed out earlier, were filed in 2005/2006. The reliefs sought related to the period from 01.04.1974. In other words, the writ petitions were filed in the year 2005/2006,

seeking reliefs from the period 1974 onwards.

Therefore, the first question that the learned Single Judge should have addressed is as to whether the claim made by the respondents was stale or not.

It is true that from the year 1977, the respondents did not keep quiet. They raised an industrial dispute, which was referred to arbitration, after which the Labour Court passed an award on 20.11.1995. But the Labour Court itself did not grant any relief. On the contrary, the Labour Court referred the parties only to the Screening Committee and left the matter to the wisdom of the screening Committee to grant or refuse any relief.

The Screening Committee comprising of experts, refused to grant relief. This happened in the year 1997. The Screening Committee's order of rejection was not challenged by the respondents immediately before the High Court. They took up the matter with the Labour Court as though the Labour Court's award dated 20.11.1995 was not complied with. The Labour Court rejected this contention.

Therefore, in all appropriateness, the respondents could have challenged the order of the Labour Court. Instead they challenged the order of the Screening Committee, after a period of eight years.

Whenever a report of a Committee of experts is challenged in a

writ petition, the first thing that the Court is obliged to do is to see whether the parameters of judicial review under Article 226 of the Constitution of India are fulfilled. In this case, the learned Single Judge went into the merits of the dispute without testing the correctness of the conclusion reached by the Screening Committee on the parameters available for a judicial review. This can be demonstrated best by extracting the relevant portions of the order of the learned Single Judge, which is self-explanatory. Therefore, it is extracted as follows:

“I have heard counsel for the parties.

The contents of the petitioners is that once the Labour Court reached at the conclusion that the initial appointment of the petitioners was in a trade that is category "B" there was no occasion for the respondents to take any different view. It is also contended by counsel for the petitioners that the only requirement as per para 14 of the award dated 31.5.1978 for grant of pay scales is that the technical workmen must have completed two years or more continuous service and have been continuously in Board's service. The petitioners, on the day the award was made, were in continuous service of the Board for a term of more than two years. They were admittedly in a trade with the category "B" and as such were entitled for getting pay fixation as per para-11.

It is pertinent to note here that whatever stand taken by the respondents before this Court is the same as taken before the Labour Court. The Labour Court after considering the statements of personal officer as well as all other evidence available gave a specific finding that the petitioners workmen were holding a post in specific trade and as such were entitled to be considered as per para 14. The discretion was given to the Board to consider candidature of the petitioners as aforesaid by accepting the position that the workmen were entitled to be considered under the award dated 31.5.1978. The

respondent Corporation, therefore, erred while opening an issue that was already concluded by the Labour Court.

Beside the above, on merits too, the date of initial appointment of the petitioners, date of their regularization and the fact that on 31.5.1978 the petitioners were in service of the Board in a specific trade, the petitioners are certainly entitled for getting their pay fixed as per para 14 of the award dated 31.5.1978.

For the reasons stated above, these petitions for writ deserve acceptance, hence the same are allowed. The respondents are directed to allow the pay scale No.3 to petitioners Sarva Shri Chander Shanker Pandya and Madhusudan w.e.f. 1.4.1974 and to petitioner Shri Basant Lal w.e.f. 1.4.1973 as per the agreement dated 20.7.1972. The petitioners shall also be entitled for all consequential benefits.”

A perusal of the relevant portion of the order of the learned Single Judge shows that the learned Single Judge exercised a jurisdiction not vested in him in law under Article 226 of the Constitution of India to interfere with the findings of a Committee of experts. When the Labour Court itself thought it fit to refer the parties to the Screening Committee, in view of the limited nature of expertise available to the Labour Court, a Writ Court could not have done what the Labour Court itself refrained from doing.

Therefore, the appeals are liable to be allowed. Accordingly, they are allowed, and the impugned order is set aside and the writ petitions filed by the respondents shall stand dismissed.

Pending application(s), if any, shall stand disposed of.

.....J.  
(V. RAMASUBRAMANIAN)

.....J.  
(PANKAJ MITHAL)

NEW DELHI;  
APRIL 20, 2023.  
PS

ITEM NO.102

COURT NO.14

SECTION XV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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C.A. NO. 5179/2011 (XV)

Date : 20-04-2023 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Appellant(s) Mrs. Christi Jain, Adv.  
Mr. Puneet Jain, Adv.  
Mr. Harsh Jain, Adv.  
Mr. Umang Mehta, Adv.  
Mr. Mann Arora, Adv.  
Ms. Akriti Sharma, Adv.  
Ms. Shruti Singh, Adv.  
Ms. Pratibha Jain, AOR

For Respondent(s) Mr. Mukul Kumar, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The appeals are allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)  
COURT MASTER (SH)

(MATHEW ABRAHAM)  
COURT MASTER (NSH)

(Signed order is placed on the file.)