

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 470 OF 2008

SECRETARY GEN. FAMILY PLANNING
ASSN. & ORS.

... APPELLANT(S)

VERSUS

MUKESH SHRIVASTAVA

..RESPONDENT(S)

WITH

CIVIL APPEAL NO. 472/2008

CIVIL APPEAL NO. 473/2008

CIVIL APPEAL NO. 474/2008

CIVIL APPEAL NO. 475/2008

CIVIL APPEAL NO. 476/2008

CIVIL APPEAL NO. 477/2008

CIVIL APPEAL NO. 478/2008

CIVIL APPEAL NO. 479/2008

O R D E R

Heard learned counsel for the parties.

The correctness of the order passed on the applications filed by the workmen before the High Court of Madhya Pradesh in writ appeal, under Section 17-B of the Industrial Disputes Act, for short 'the ID Act' wherein the appellants-employer have challenged the legality and validity of the award passed by the Labour Court, Bhopal, which after adjudication of the industrial dispute before it awarded reinstatement of the workmen with 50% back wages, has been challenged in the writ appeal filed before the High Court by the appellants, as it was aggrieved of the award and judgment and order of the High Court passed in the writ petitions.

During the pendency of the aforesaid writ appeal, the workmen had sought for grant of wages under Section 17-B of the ID Act, by filing interlocutory applications, as it is their statutory protection to defend their case before the High Court. The said applications were opposed by the appellants herein inter alia contending that the workmen are not entitled for wages under Section 17-B of the ID Act and the management is not liable to pay the same during the pendency of the writ appeals as they have challenged the correctness of the award and judgment and order passed in the writ petitions on valid and legal grounds

and placed reliance upon the judgments of this Court in support of their contention. The High Court, after adverting to various aspects of the case and also to the judgments of this Court in the case of C.M. Saraiah v. E.E., Panchayat Raj Department & Anr., 2000 (1) LLJ 23, wherein this Court has held that the High Court has no jurisdiction under Article 226 of the Constitution of India to direct non-compliance of the provisions of Section 17-B of the ID Act, held that they rightly placed reliance upon the judgment of this Court in the case of Dena Bank v. Kirtikumar T. Patel, AIR 1998 Lab.I.C. 578, wherein this Court has held that the workmen are entitled to the benefit of Section 17-B of the ID Act during the pendency of the writ appeals filed by the employer.

Per contra, the aforesaid cases were sought to be distinguished by learned counsel for the respondent by placing reliance upon the judgment of the High Court, the same has not been accepted by the Division Bench of the High Court in the impugned judgment and order and it disposed of the applications directing the applicant-appellant herein for compliance of the provisions of Section 17-B of the ID Act, within a period of two months from the date of the order. The said order is challenged in these appeals by the

appellants.

This Court, while issuing notice on 23.04.2007, has passed interim order and the same is in operation till date.

Having regard to the facts and circumstances of the case, the material available on record, the rival legal submissions and keeping in view the intendment and object of the Parliament while inserting Section 17-B of the ID Act that the workmen shall have security for the purpose of effectively defending their case before the High Court where the award passed in their favour by either the Labour Court or the Industrial Tribunal adjudicating their claims is being questioned by the employer under Articles 226 and 227 of the Constitution of India and keeping in view the avowed intendment and object of the Act to protect the workmen, being the weaker sections of the society, in our considered view, the protection given by the statute cannot be whittled down either by the High Court or this Court, as no court has jurisdiction to do the same. The High Court, while exercising its extraordinary jurisdiction was satisfied that the workmen were entitled to the benefit of wages to the respondent-workmen under the provisions of Section 17-B of the ID Act, during the pendency of the writ appeals. In our considered view, the same can

be neither termed as erroneous nor illegal. Accordingly, we are in respectful agreement with the view taken by the High Court in passing the impugned judgment and order. Since the conclusions arrived at by the Division Bench of the High Court are in conformity with the principles of law, we do not find any good reason to interfere with the impugned judgment and order passed by the High Court and we are satisfied that it is not a fit case for our interference.

In view of the above, we are not inclined to interfere with the impugned judgment and order passed in these appeals on interlocutory applications under Section 17-B of the ID Act, Hence, the appeals must fail, which we order.

The interim order passed in these appeals is also vacated. The employer-appellant herein is directed to comply with the judgment and order passed by the Division Bench of the High Court in these appeals and submit its compliance report before this Court within a period of six weeks from the date of receipt of a copy of this order, failing which the workmen shall be entitled for interest at the rate of 9% per annum from the date of their entitlement of wages ordered to be paid by the Division Bench of the High Court in these appeals under Section 17-B of the ID Act.

The appeals are dismissed with the aforesaid observations and directions to the appellant.

.....J.
(V. GOPALA GOWDA)

.....J.
(C. NAGAPPAN)

NEW DELHI,
FEBRUARY 19, 2015

ITEM NO.101

COURT NO.11

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

Civil Appeal No(s). 470/2008

SECRETARY GEN.FAMILY PLANNING ASSN.& ORS.

Appellant(s)

VERSUS

MUKESH SRIVASTAVA

Respondent(s)

(with office report)

WITH

C.A. No. 472/2008

C.A. No. 473/2008

C.A. No. 474/2008

(With Interim Relief and Office Report)

C.A. No. 475/2008

(With Interim Relief and Office Report)

C.A. No. 476/2008

(With Interim Relief and Office Report)

C.A. No. 477/2008

(With Interim Relief and Office Report)

C.A. No. 478/2008

(With Interim Relief and Office Report)

C.A. No. 479/2008

(With Interim Relief and Office Report)

Date : 19/02/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE C. NAGAPPAN

For Appellant(s)

Mr. Akshat Shrivastava, Adv.

Ms. Manjeet Kirpal, Adv.

For Respondent(s)

Mr. Rajesh Singh, Adv.

Mr. M.K. Verma, Adv.

Mr. Sunil Singh Parihar, Adv.
Mr. Ashok Mathur, Adv.

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

The appeals are dismissed in terms of the signed order.

(VINOD KR. JHA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)