

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2228 of 2012  
(Arising out of SLP(C) No.19698/2010)

KAMALA SINGH &amp; ORS.

....APPELLANTS

VERSUS

NATIONAL TEXTILE CORPN. &amp; ANR.

...RESPONDENTS

## O R D E R

1. Leave granted.

2. Appellants appear to be aggrieved by the order dated 25.03.2010, passed by Division Bench of the High Court of Judicature at Bombay, in Appeal No.1118/2001 arising out of Writ Petition No.806/1997 titled N.T.C. (S.M.) Ltd. vs. Kamala Singh & Ors. This order is fall out of the earlier order passed by this Court on 08.04.2009 in Civil Appeal No.2562/2009 titled as National Textile Corporation (SM) Limited vs. Kamala Singh & Ors. On the said date, after having heard learned counsel for the parties, this Court was pleased to dispose of the Appeal, by remitting the matter to the Division Bench of the High Court for reconsideration in the following terms:

"...We, therefore, deem it appropriate to remit the matter to the Division Bench of the High Court for reconsideration keeping in view the changed scenario and also the additional affidavit referred to above and any other material which the parties may wish to put on record.

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We accordingly, set aside the order of the High Court and remit the matter back to the Division Bench. The parties shall appear before the High Court immediately on re-opening after the summer vacation. We also request the High Court to go into the matter as expeditiously as possible as the dispute has been pending since long. We also make it clear that nothing said in this order shall be construed as an expression of opinion on the merits of the case.

The appeal is accordingly, disposed of."

3. Pursuant to the aforesaid order having been passed by this Court, the matter had come up for hearing before Division Bench of the High Court of Judicature at Bombay on 10.02.2010. On the said date, keeping in mind the aforesaid order passed by this Court on 08.04.2009, the Division Bench of the High Court passed the order, the operative part thereof is extracted below :

".....The Supreme Court has also made it clear that the parties may file additional material before this Court so as to decide the appeal only on the issue of fitment of salaries in the IDA Grade and keeping in mind the provisions of Section 12 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

If the parties desire to place on record the additional material, the same may be done within four weeks with the list of such documents.

Such list shall be exchanged between the parties within two weeks from today.

S.O. For four weeks."

4. Thereafter, the matter had come up for hearing again before another Division Bench of the High Court on 25.03.2010. On the said date, after having heard learned counsel appearing for the parties, the matter has been

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remitted to the Industrial Court for de novo consideration and decision in accordance with law. It also says that the previous orders passed in these proceedings and also the order passed by the Supreme Court would be taken into consideration. It is against this order, the Respondents of the said Appeal are before us challenging the same on variety of grounds.

5. Mr. C. U. Singh, learned senior counsel appearing for Appellants submitted that in view of the earlier order passed by this Court on 08.04.2009, subsequent order of Division Bench of the High Court came to be passed on 10.02.2010, which made it abundantly clear that the matter

had to be heard by the Division Bench only and was not required to be remitted further. According to him, the only limited issue required to be decided in Appeal was with regard to fitment of salaries in the IDA Grade and also keeping in mind the provisions of Section 12 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

6. On the other hand, learned counsel appearing for Respondent No.1/National Textile Corporation (SM) Ltd., submitted that the additional Affidavit of Mr. Premanand Vamanrao Waghmare, Deputy General Manager (Personnel) filed in the High Court on 20.11.2006 had also to be considered  
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by the Division Bench and only thereafter, final order could be passed by it.

7. We fully agree to the submissions made by learned senior counsel for Appellants, even though the same have been refuted by learned counsel for Respondent No.1.

8. However, looking to the limited controversy as was projected by the Division Bench of the High Court in its earlier order dated 10.02.2010, there was absolutely no necessity of further remitting the matter to the Industrial Court under the guise that disputed questions of facts are required to be considered, which cannot be gone into at this stage. The order dated 08.04.2009 passed by this Court in the matter between the same parties, pursuant thereto the earlier Division Bench had properly construed the question to be answered and then posted the matter for hearing accordingly. But it did not further remand the matter to the Industrial Court, for de novo trial. The matter should have been disposed of on merits in the light of the order passed by this Court on 08.04.2009, properly

interpreted by the Division Bench vide its order dated  
10.02.2010.

9. Thus, the order of remand cannot be sustained in law  
and is hereby quashed and set aside. As a necessary  
consequence thereof, the matter is remitted to the Division  
Bench of the High Court for being heard and decided, as  
expeditiously as possible, in accordance with law on  
merits.

10. While doing so, the Division Bench shall keep in mind  
not only the order passed by this Court on 08.04.2009 but  
also take into consideration the subsequent order dated  
10.02.2010 passed by Division Bench of the High Court and  
also the Affidavit of Mr. Premanand Vamanrao Waghmare,  
Deputy General Manager (Personnel) filed by Respondents.

11. It is expected of Division Bench of the High Court to  
consider and dispose of the matter, keeping in view the  
directions as mentioned hereinabove, preferably within a  
period of six months from the date of communication of this  
order.

12. With the aforesaid directions, this Appeal stands  
finally disposed of but with no order as to costs.

.....J  
[Deepak Verma]

.....J  
[K. S. Radhakrishnan]

New Delhi;  
February 21, 2012.

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ITEM NO.3

COURT NO.10

SECTION XV

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).19698/2010

(From the judgment and order dated 25/03/2010 in Appeal No.1118/2001 in WP No.806/1997 of The HIGH COURT OF BOMBAY)

KAMALA SINGH & ORS.

Petitioner(s)

VERSUS

NATIONAL TEXTILE CORPN. & ANR.

Respondent(s)

(With appln(s) for permission to file additional documents and office report)

Date: 21/02/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s)

Mr. C. U. Singh, Sr. Adv.

Mr. Aniruddha P. Mayee, Adv.

Mr. Charudatta Malindrakar, Adv.

For Respondent(s)

Mr. Sanjoy Ghose, Adv.

Mr. Nitin Bhardwaj, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

This Appeal stands finally disposed of but with no order as to costs, in terms of the signed order.

(Sanjay Kumar-II)

(S.S.R. Krishna)

Court Master

Court Master

[Signed Order is placed on the file]