

Union of India

Vs

Dalmiya Engineering (P) Ltd. and Others

Civil Appeal No. 2162 of 1974

(G. L. Oza, Dr. T. K. Thommen JJ)

25.10.1989

JUDGMENT

THOMMEN, J. –

1. This appeal by special leave is brought by the Union of India against the judgment of the Division Bench of the Calcutta High Court dated March 2, 1973 setting aside the judgment of the learned Single Judge in Special Suit No. 19 of 1970 which was instituted by the present respondent under Section 20 of the Arbitration Act for recording the arbitration agreement which it had entered into in November 1967 with the present appellant, the Union of India. The present respondent as plaintiff in that suit contended that the arbitration agreement embodied in clause 25 of its contract with the Union of India applied to all disputes including disputes with the respondent's workmen which are governed by the specific provisions of the Central Public Works Department Contractors' Labour Regulations (the "Regulations") forming part of the contract. The learned Single Judge held that, although the aforesaid regulations formed part of the respondent's contract with the appellant for the construction work undertaken by it, disputes between the respondent and its workmen did not come within the scope of the arbitration clause as contained in clause 25 of the contract. Such disputes had no connection with the appellant, but they concerned only the respondent vis-a-vis its workmen. Any such labour dispute is governed by the regulations which, though incorporated in the respondent's contract with the appellant, are a complete code in themselves, and had to be dealt with by the Labour Appellate Authority. The respondent had in this dispute fully participated in the inquiry conducted by the Labour Welfare Officer as well as in the appeal brought by it before the Labour Appellate Authority. In view of such circumstances and the special provisions contained in the regulations, though forming part of the contract, the learned Single Judge held that the respondent's dispute with its workmen fell outside the arbitration clause.

2. Arbitration clause, as stated earlier is contained in clause 25 of the contract between the parties, the relevant portion of which reads :

"Except where otherwise provided in the contract all questions and disputes relating to ... shall be referred to the sole arbitration of the person appointed by the Additional Chief Engineer, Central Public Works Department ..."

3. It was with reference to the exception contained in clause 25 that the learned Single Judge stated that the regulations being a self-contained code and the dispute between the contractor and its workmen being of no relevance to the appellant and governed solely by the regulations, all disputes between the contractor and its sub-contractor or workmen fell within the exception provision of clause 25.

4. This reasoning was, in our view, sound. It was wrongly set aside by the learned Judges of the Division Bench of the High Court. They failed to appreciate that the very arbitration clauses relied on by the contractor provided for an exception, and the regulations, though incorporated in the contract, were applicable solely to disputes between the contractor and its workmen. Such disputes had nothing to do with the work undertaken to be performed by the respondents in terms of its contract with the appellant. The appellant was not concerned with the respondent's disputes with its sub-contractor or its workmen. Any such dispute being unconnected with the contractual relationship between the respondent and the appellant was not germane to the arbitration agreement and was therefore excluded from the jurisdiction of the arbitrator.

5. In the circumstances, we hold that the conclusion reached by the learned Single Judge was right. The impugned judgment and order of the Division Bench of the High Court under appeal shall accordingly stand set aside and the judgment of the learned Single Judge shall stand restored. The appeal is allowed in the above terms. We do not, however, make any order as to costs.

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