

SUPREME COURT OF INDIA

Anil Sood

Vs.

Presiding Officer, Labour Court II

C.A.No.7092 of 2000

(S. R. Babu and B.N. Agrawal JJ.)

01.12.2000

ORDER

1. Leave granted.

2. A reference was made under the Industrial Disputes Act to the labour court in respect of a dispute between the parties to this proceeding. An Award was made on 11.9.1995. An application was filed by the appellant on 6.11.1995 averring that he had no notice of the proceedings in the reference. That application came to be dismissed on the ground that the labour court has become functus officio having passed an Award. Thereupon a writ petition was filed before the High Court which also did not end in their favour. Hence this appeal.

3. Learned Counsel for the appellant submitted that there are ample powers with the Labour Court to set aside the Award made ex parte if sufficient cause is shown as enunciated by this Court in - Grindlays Bank Ltd. v. Central Government Industrial Tribunal and Ors. 1980 (Sup) SCC 420.

4. Learned Counsel for the respondents submitted that in fact a finding had been recorded by the labour court in the Award that the appellant had been served with notice and in spite of which he did not appear. Therefore, in the proceedings he had been set ex parte. He submitted that material is sufficient to hold that there was service of notice upon the appellant and hence there is no cause for the appellant to come before this Court against rejection of the application made by the labour court which has been affirmed by the High Court in a writ proceedings.

5. This Court in Grindlays Bank Ltd.'s case (supra) examined the scheme of the provisions under the Industrial Disputes Act and enunciated that Section 11 of the Industrial Disputes Act conferred ample powers upon the Tribunal to devise its own procedure in the interest of justice which includes powers which bring out the adjudication of an existing industrial dispute. Sub-sections (1) and (3) of Section 11 of the Act thereby indicate the difference between procedure and powers of the Tribunal under the Act while the procedure is left to be devised by the Tribunal to suit carrying out its adjudication.

6. If this be the position in law both the High Court and the Tribunal fell into error in stating that the labour court had become functus officio after making the Award though ex parte. We set aside the

order made and the Award passed by the labour court and affirmed by the High Court in this regard, in view of the fact that the learned Counsel for the respondent conceded that application filed by the appellant be allowed, set aside the ex parte Award and restore the reference. To decide the matter afresh, the parties shall appear before the labour court on 11.12.2000 to take further directions as regards the proceedings. As the matter is very old, it would be appropriate for the labour court to dispose of this reference as expeditiously as possible but not later than six months from today.

7. Appeal is allowed accordingly.

Civil Appeal No. 7091 of 2000

Arising out of Special Leave Petition (C) No. 12758 of 1997

8. Leave granted.

9. The questions that arise in this appeal are identical to those considered by us in C.A. No. 7092 of 2000 Arising out of SLP (C) No. 12759/1997. In view of the decision in the said appeal and for the reasons stated therein, this appeal is allowed in the same terms as set forth therein. The parties shall appear before the labour court on 11.12.2000 to take further directions as regards the proceedings. As the matter is very old, it would be appropriate for the labour court to dispose of this reference as expeditiously as possible but not later than six months from today. The appeal is allowed.