

SUPREME COURT OF INDIA

Godrej & Boyce Manufacturing Company Ltd.

Vs.

Engineering Workers' Association

C.A.No.11063 of 2018

(Abhay Manohar Sapre and Indu Malhotra,JJ.,)

16.11.2018

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(C) No.28379 of 2018

1. Leave granted.

2. These appeals are directed against the final judgment and order dated 29.08.2018 passed by the High Court of Judicature at Bombay in W.P.(C) Nos.3150/2017, 3188/2017 and 3189 /2017 whereby the High Court disposed of the writ petitions filed by the appellant herein and upheld the award dated 02.03.2017 passed by the Industrial Tribunal, Maharashtra, Mumbai in Reference (IT) No.15 of 2006.

3. In order to appreciate the issues involved in these appeals, few facts need mention hereinbelow.

4. An industrial reference (IT) 15 of 2006 was made by the Commissioner of Labour under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as "the ID Act") to the Industrial Tribunal at the instance of the Engineering Workers' Association(respondent herein). The industrial reference reads as under:

“Company shall take into its employment the 99 workmen who are working through the devise of the contractor M/s Mazda Services and whose names here inter impleaded as Complainants in Complaint (ULP) No.529 of 1995 w.e.f. 30.05.1995 and to pay them the differences in wages and other benefits as paid to the regular workmen of the company and to continue to pay the same thereafter.”

5. The Godrej & Boyce Manufacturing Company Ltd. (employer), Engineering Workers' Association (Workers' Association), Godrej Boyce Shramik Sangh (recognized union) and Mazda Services (contractor) filed their respective statements in support of their case and also

adduced their evidence. The Tribunal, by awards dated 23/24.07.2014 answered the references in favour of the employer.

6. The workers' Association felt aggrieved and filed petitions bearing W.P.(C) Nos. 819, 820 and 821 of 2015 in the High Court of Judicature at Bombay and questioned therein the legality and correctness of the awards. By common order dated 11.08.2015, the High Court allowed the writ petitions and while setting aside the awards remanded the cases to the Industrial Tribunal for deciding the references afresh on merits.

7. By award dated 02.03.2017, the Industrial Tribunal answered the reference in favour of the Workers' Association. In answering so, the Industrial Tribunal also directed the employer to pay a lump sum amount of Rs. 5 lacs to each workman. The employer felt aggrieved and filed writ petitions (Nos.3150,3188 & 3189/2017) in the High Court. By impugned order, the High Court upheld the award of the Industrial Tribunal but quashed the direction pertaining to payment of Rs. 5 lacs to each workman.

8. Against this order of the High Court, the employer and the contractor have felt aggrieved and filed the present appeals by way of special leave in this Court.

9. Heard Mr. P.S. Patwalia, Mr. J.P.Cama, learned senior counsel for the appellants and Mr. Vinay Navare, learned counsel for the respondents.

10. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeals and while setting aside the impugned order remand the case to the High Court for deciding the writ petitions afresh on merits.

11. The need to remand the case has been occasioned on account of one factual error committed by the High Court while dealing with two submission of the appellant (employer) in Para 34 of the impugned order. It is noticed that while dealing with the submissions of the appellant(employer), viz., that the reference made to the Industrial Tribunal is improperly and presumptuously worded and secondly, the Industrial Tribunal travelled beyond the scope of the reference, the High Court instead of quoting the reference, by mistake quoted the operative portion of the award passed by the Industrial Tribunal and treated the operative portion of the award as reference and proceeded to examine the submissions and rejected the same.

12. In our opinion, this being obviously an error apparent on the face of the record of the case and rightly admitted by the learned counsel appearing for the respondents, we have no option but to set aside the impugned order and remand the case to the High Court for deciding the writ petitions afresh on merits. We express no opinion on any of the issues dealt with by the High Court in the impugned order.

13. In our view, the mistake being apparent, the impugned order deserves to be set aside on this ground alone.

14. In view of the foregoing discussion, the appeals succeed and are accordingly allowed. Impugned order is set aside. The writ petitions out of which these appeals arise are restored to their respective numbers for their disposal on merits in accordance with law.

15. We, however, make it clear that we have not expressed our opinion on any of the issue arising in the case having formed an opinion to remand the case to the High Court. The High Court will, therefore, decide the writ petitions afresh uninfluenced by any of our observations strictly on merits.

16. We request the High Court to dispose of the writ petitions, expeditiously, preferably within 6 months.