

(1998) 09 CAL CK 0006
In the Calcutta High Court
Case No : Writ Petition No. 1908 of 1998

Amar Nath Dey

APPELLANT

Vs

The Seventh Industrial Tribunal, W.B. and Others

RESPONDENT

Date of Decision : 22-09-1998

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 15(2)(b)

Citation : 1 CWN 396

Hon'ble Judges : Samaresh Banerjea, J

Bench : Single Bench

Advocate : Arunava Ghosh and Raja Bose, for the Appellant; Ameresh Ch. Chakraborty, for the Respondent

Judgement

Samaresh Banerjea, J.—In the instant petition, the petitioner workman, has challenged an order passed by the Tribunal rejecting the application of the workman for disposing of the application for review made by the employer of the order passed earlier directing payment of interim relief u/s 15(2)(b) of the Industrial Disputes Act to the workman and directing that such review application will be disposed of along with the main reference. It may be noted after reference of the industrial dispute to the said Tribunal the petitioner on 9th November 1989 filed an application u/s 15(2)(b) of the Industrial Disputes Act for interim relief whereupon the employer took a preliminary point that the petitioner was not a workman. The said preliminary objection was heard and by an award dated 24th October, 1990 the Tribunal held that the petitioner was not a workman.

2. The aforesaid decision of the Tribunal was challenged before this Hon'ble Court under Article 226 of the Constitution of India being Matter No. 2485 of 1991 which was finally disposed of by Prabir Kumar Mazumdar, J. (as he then was) by an order dated 4th March, 1994 by which the writ application was allowed. The order of the Tribunal was set aside and the matter was remanded

back to the Tribunal to decide the issue under reference and also to decide the application of the petitioner for interim relief u/s 15(2)(b) of the said Act on merits. By the said order it will dispose of the said application of the petitioner u/s 15(2)(b) of the Act for interim relief as early as possible pending hearing of the reference.

3. After remand of the matter by an order dated 27th March, 1996, the tribunal allowed the prayer for payment of interim relief and directed the employer to pay the same. But as the employer, however, did not pay the interim relief in terms of the order, the workman moved the Company Court of this Hon'ble Court for winding up of the Company, which was ultimately disposed of by directing the Company to keep in deposit with the Registrar, Original Side of this Hon'ble High Court a sum of Rs. 90,000/- in Fixed Deposit and the winding up application was permanently stayed. Subsequently such order was modified by an order dated 1st July, 1997 giving liberty to the parties to obtain suitable direction with regard to the Fixed Deposit after the review application is disposed of. It may be noticed in this connection that in the meantime the employer Company made an application before the Tribunal for review of the order directing grant of interim relief.

4. It appears to this Court the aforesaid review application made by the employer has not been disposed of as yet. It is complained by the petitioner-workman that between 17th June 1997 and 28th August '98 31 dates were given for hearing of the Review Application by the Tribunal. Ultimately when the workman applied before the Tribunal for disposing of the review application, the Tribunal has held that the same will be disposed of along with the main matter.

5. Having heard the learned Counsel for the parties and considering the application I am of the view that the Tribunal has committed a gross error in not disposing of the aforesaid application made by the employer for review of the order passed by the tribunal earlier for payment of interim relief.

6. The very term "interim relief" connotes that the whole purpose of the legislature on enacting such provision was to give interim relief to a workman pending adjudication of the industrial dispute before the tribunal to ameliorate his hardship.

7. The provisions of Section 15(2)(b) of the Act also makes it clear that such prayer for interim relief is required to be disposed of with utmost expedition.

8. In the instant case admittedly on earlier occasion such application was disposed of by directing grant of interim relief. But despite the fact such order was passed the payment was not made and ultimately the employer has applied for review of such order. In such view of the matter, the review application made by the employer in connection with the said order directing grant of interim relief was required to be disposed of by the Tribunal with utmost expedition which, however, has not been done.

9. If an application praying for grant of interim relief is to be heard with the main matter, the very purpose of grant of interim relief will stand frustrated. The intention of the legislature being absolutely clear from the aforesaid provision of the Act. it is in the fitness of things that when prayer is made for grant of interim relief the same is required to be disposed of with utmost expedition. The question of disposal of the same alone with the main matter can never arise as in my view it will be against the very object and purpose of the said provisions of the Act.

10. That apart while disposing of the writ application being Matter No. 2485 of 1991 Prabir Kumar Mazumdar. J. was pleased to direct expeditions disposal of the said prayer for interim relief pending reference. It was therefore incumbent upon the tribunal also to dispose of the application for review of the order granting interim relief with utmost expedition. But the aforesaid order passed by this Hon"ble Court in such earlier proceedings has not been properly complied with the Tribunal.

11. In such view of the matter this writ application stands allowed.

12. The Tribunal is directed to dispose of the application for review made by the employer of the order passed directing payment of interim relief before deciding the main matter positively by 31st December, 1998 without giving unnecessary adjournments to any of the parties.

13. Since no affidavits have been filed by the respondents the allegations made in the writ petition are deemed not to have been admitted by the respondents.

14. The writ application, accordingly, disposed of.

15. There will be no order as to costs. All parties are to act on a signed xerox copy of this Dictated Order on the usual undertaking.