

(2010) 10 GUJ CK 0155
In the Gujarat High Court

Case No : Special Civil Application No's. 17953 and 18243 to 18273 of 2006 and 2951 of 2009

Director

APPELLANT

Vs

Ravjibhai Jesingbhai Gohil and Others

RESPONDENT

Date of Decision : 06-10-2010

Acts Referred:

Citation : (2010) 10 GUJ CK 0155

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Nanavati Associates, for the Appellant; N.K. Majmudar, for Respondents 1, 3, 3.2.1, 13, 22 and 22.2.1, for the Respondent

Judgement

M.R. Shah, J.—As common question of law and facts arises in these group of petitions and they are between the same parties they are being disposed of by this common judgment and order.

2. Special Civil Application Nos. 17953/2006, 18243/2006 to 18273/2006 are preferred by the common Petitioner-Gujarat Alkalies & Chemicals Ltd. for an appropriate writ, order or direction quashing and setting aside the impugned judgment and order dated 31/03/2006 passed by the Labour court, Vadodara in Reference Nos. 701/1993 to 735/1993 by which the Labour Court has allowed the References, except Reference Nos. 707/1993, 717/1993 and 723/1993, directing the Petitioner to reinstate the concerned respondents-workmen at their own original place with back wages ranging between 20% to 40% as mentioned in the operative portion of the order.

3. Special Civil Application No. 2951/2009 has been preferred by the Petitioner-Gujarat Alkalies and Chemicals Ltd. for an appropriate writ, order or direction quashing and setting aside the impugned judgment and order dated 04/12/2008 passed by the Labour Court, Vadodara below Exh. 36 in Reference (I.T.) No. 88/1996 in not staying further proceedings of Reference (I.T.) No. 88/1996 till final disposal of Special Civil Application Nos. 17953/2006 and other allied

matters.

4. Shri Keyur Gandhi, learned advocate appearing on behalf of the Petitioner has submitted that by the impugned judgment and award dated 31/03/2006 passed in Reference Nos. 701/1993 to 735/1993 the Labour Court has also decided the issue whether the contract between the Petitioner and the contractor is sham and bogus, though the said dispute was not referred to the Labour Court and the dispute, which was referred to the Labour Court, was only with respect to termination of the concerned respondents-workmen. It is submitted that as such one another Reference, being Reference (I.T.) No. 88/1996, was already pending before the Labour Court, Vadodara for the dispute whether the contract between the Petitioner and the contractor is sham and bogus or not. It is submitted that by giving the finding in the References that the contract between the Petitioner and the contractor was sham and bogus, as such Reference (I.T.) No. 88/1996 is virtually decided and allowed without finally adjudicating and deciding the same, and, therefore, it is requested to quash and set aside the impugned judgment and award passed by the Labour Court, Vadodara dated 31/03/2006 in Reference Nos. 701/1993 to 735/1993 and to remit the matter to the Industrial Tribunal for deciding the said References alongwith Reference (I.T.) No. 88/1996 in which the dispute whether the contract between the Petitioner and the contractor is sham and bogus or not is pending.

5. Shri N.K. Majmudar, learned advocate appearing on behalf of the concerned respondents-workmen, under instructions from the concerned respondents-workmen, has stated at the bar that he has no objection if the impugned judgment and award passed by the Labour Court, Vadodara dated 31/03/2006 in Reference Nos. 701/1993 to 735/1993 are quashed and set aside and the same are remanded to the Labour Court and they are transferred to the Industrial Tribunal and the same are heard alongwith Reference (I.T.) No. 88/1996. However, he has submitted that a suitable observation be made directing the Industrial Tribunal to decide and dispose of the aforesaid References afresh in accordance with law on its own merits, without, in any way, being influenced by the present order and keeping all the questions in favour of the respective parties open. It is also requested to direct the concerned Industrial Tribunal to decide and dispose of the same within the stipulated time. The learned advocates appearing on behalf of the respective parties do not invite any further reasoned order while quashing and setting aside the impugned judgment and award. The learned advocates appearing on behalf of the respective parties have also jointly submitted that the Labour Court, Vadodara may be directed to transfer Reference Nos. 701/1993 to 735/1993 to the Industrial Tribunal, Vadodara so that the same can be heard, decided and disposed of by the Industrial Tribunal alongwith Reference (I.T.) No. 88/1996 in which the dispute with respect to whether the contract between the Petitioner and the contractor is sham and bogus or not is pending.

6. In view of the above and for the reasons stated hereinabove and in view of

the above broad consensus between the learned advocates appearing on behalf of the respective parties recorded hereinabove, the impugned judgment and award passed by the Labour Court, Vadodara in Reference Nos. 701/1993 to 735/1993 are hereby quashed and set aside and the same are remanded to the Labour Court, Vadodara and the Labour Court, Vadodara is hereby directed to pass a formal order of transferring all the aforesaid References to the Industrial Tribunal, Vadodara within a period of four weeks from the date of receipt of the present order and thereafter the concerned Industrial Tribunal is directed to finally decide and dispose of Reference Nos. 701/1993 to 735/1993 alongwith Reference (I.T.) No. 88/1996 in accordance with law on its own merits, without, in any way, being influenced by the present order. All the questions are kept open and it is made clear that this Court has not expressed any opinion on merits in favour of either parties either with respect to the alleged termination of the concerned respondents-workmen or even with respect to the contract with respect to the Petitioner and the contractor being sham and bogus. All the aforesaid questions are required to be decided by the concerned Industrial Tribunal in accordance with law on its own merits on the basis of the evidence led. Considering the fact that the dispute is pending since 1996, the Industrial Tribunal is directed to give top priority for finally deciding and disposing of the aforesaid References at the earliest but not later than 30/06/2011. All the parties concerned are directed to co operate for early disposal of the References within the stipulated time stated hereinabove. Rule is made absolute to the aforesaid extent so far as Special Civil Application Nos. 17953/2006, 18243/2006 to 18271/2006 are concerned. No cost.

7. In view of disposal of Special Civil Application Nos. 17953/2006, 18243/2006 to 18271/2006 no further order is required to be passed in Special Civil Application No. 2951/2009 and the same is accordingly disposed of. Rule is discharged.