

(2009) 06 BOM CK 0114
In the Bombay High Court
Case No : C.A.J.W.P. No. 2766 of 2009

General Mazdoor Sabha

APPELLANT

Vs

Exon Laboratories Pvt. Ltd.

RESPONDENT

Date of Decision : 08-06-2009

Acts Referred:

Citation : (2009) 123 FLR 400 : (2010) 1 LLJ 202

Hon'ble Judges : V.M. Kanade, J

Bench : Single Bench

Advocate : S.S. Pathak and T.R. Yadav, for the Appellant; R.V. Paranjpe, for the Respondent

Final Decision : Allowed

Judgement

V.M. Kanade, J.—The petitioner is a Trade Union, representing four workers. Respondent Company is engaged in manufacturing intermediate for drugs and Pharmaceuticals. The petitioner is challenging Part-I Award dated July 10, 2006 and Part-II Award dated April 16, 2008 passed by the Hon"ble Labour Court at Mahad in Reference(IDA) 318/2000.

2. The only point urged by the learned Counsel appearing on behalf of the Petitioner is that the Labour Court had not assigned any reasons for recording findings given in Part-I Award on both the issues viz. on the question, whether the inquiry held against the workmen was legal, fair and proper and also on the question, whether findings of the Inquiry Officer are perverse. He invited my attention to the impugned order and the findings on both these issues. He submitted that it was open for the workmen to challenge both the Awards simultaneously. In support of the said submission-he relied upon the judgment of the Apex Court in the case of The Cooper Engineering Limited Vs. Shri P.P. Mundhe, .

3. The learned Counsel appearing on behalf of the respondent, on the other hand, submitted that the Labour Court after having gone through the evidence

on record was satisfied that the findings recorded by the Inquiry Officer were proper and, therefore, there was no reason to interfere with the said Part-I Award. He relied upon the judgment of the Apex Court in the case of Usha Breco Mazdoor Sangh Vs. Management of Usha Breco Ltd. and Another, .

4. Perusal of the impugned order clearly discloses that no reasons have been assigned by the Labour Court. The Labour Court framed two issues viz. (i) whether the inquiry held against the workmen is legal and proper and (ii) whether findings of the Inquiry Officer are perverse. So far as issue No. (i) is concerned, after recording rival submissions, in para 7 of its order the Labour Court has observed as under:

7. The admissions given as above by the witnesses of the Second Party Union, I am of the view that the Enquiry Officer has informed the charges level against the employees. The Management witnesses have been examined in presence of employees. The charge sheeted employees had given fair opportunity to cross-examine to the witnesses. The charge-sheeted employees have also given fair opportunity to examine witnesses including himself in his defence. The enquiry proceedings has conducted and recorded in Marathi language. The entire enquiry proceeding is covered the guideline given by the Honourable Apex Court as per supra and therefore I am of the view that the enquiry held against the Second Party employee is legal fair and proper. Hence, I answer issue No. 1 in the affirmative.

So far as Issue No. (ii) is concerned, the following observations have been made by the Labour Court in para 10 of its order:

10. I have carefully gone through the findings drawn by the Enquiry Officer and I notice that the Enquiry Officer has scrutinize all the material evidences came before him and drawn his findings. I further notice that the findings drawn by the Enquiry Officer with cogent 5 reasons and therefore the findings drawn by the Enquiry Officer cannot be said to be perverse. Having regard to this fact, I am of the view that there is substance of the argument advanced by the learned Counsel Miss Rao. Hence, I held that the findings drawn by the Enquiry Officer are not perverse. Hence, I answer Issue No. 2 in the negative.

5. There is much substance in the submission made by the learned Counsel appearing on behalf of the petitioner. In view of the judgment of the Apex Court in the case of Cooper Engineering Limited v. Shri P.P. Mundhe (supra), it is always open for the petitioner to challenge both the Awards simultaneously since the Apex Court in the said case in para 22 has observed that the High Court can refuse to intervene at the stage when the preliminary issue is decided and the same can be agitated even after final award is passed. The Petitioner is, therefore, entitled to challenge the Part-I Award.

6. It is apparent that the Labour Court has not discussed the evidence or referred to the evidence on record and has merely stated that the Inquiry Officer has scrutinized all the material evidence before him and has drawn his findings.

It is a well settled position in law that the Labour Court is supposed to give reasons for accepting or rejecting the findings recorded by the Inquiry Officer. In the instant case, there is no material to indicate that the Labour Court has applied its mind and, therefore, it is obvious that the Labour Court has not exercised jurisdiction which is vested in it by law. Under the circumstances, therefore, the Part-I Award & Part-II Award passed by the Labour Court Mated July 10, 2006 and April 16, 2008 respectively are set aside and the matter is remanded back to the Labour Court for deciding the case afresh after hearing both the sides. The Labour Court shall carry out the said exercise as expeditiously as possible and, in any case, within a period of six months from today. Writ Petition is accordingly allowed and disposed of.