

(2013) 03 SC CK 0008

In the Supreme Court Of India

Case No : C.A.J. Civil Appeal No. 1007 of 2004 and T.P. (C) No"s. 1058, 1063, 1066 of 2008

Goa MRF Employees Union

APPELLANT

Vs

MRF Ltd.

RESPONDENT

Date of Decision : 07-03-2013

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(4), 33A

Citation : (2013) 138 FLR 1091

Hon'ble Judges : R.M. Lodha, J;Madan B. Lokur, J;Jasti Chelameswar, J

Bench : Full Bench

Advocate : Arshad Sheikh, Ms. Aparna Bhat, Pukhrambam Ramesh Kumar, Sunil Kumar Jain, Pawanshree Agarwal and Amdhur Jain, for the Appellant; R.F. Nariman, Paratap Venugopal, Ms. Surekha Raman, Purushottam Jha, Gaurav Nair, K.J. John and Co. and Naveen R. Nath, for the Respondent

Final Decision : Disposed Of

Judgement

R.M. Lodha, Jasti. Chelameswar and Madan B. Lokurr, JJ.—The appellant-Goa MRF Employees Union (for short, 'the Union') is a Trade Union registered under. The Trade Unions Act, 1926. The Union has filed a complaint against the respondent-M/s. MRF Limited (for short, 'the Employer') u/s 33A of the Industrial Disputes Act, 1947 (for short, 'the Act') praying for the following reliefs:--

(i) That this Hon'ble Tribunal be pleased to hold and declare that the respondent has illegally changed the service conditions of the workmen.

(ii) That this Hon'ble Tribunal be pleased to call upon the respondent to cease and desist from changing the service conditions of the workmen.

(iii) That this Hon'ble Court be pleased to call upon the respondents not to implement the 7 day running system on the departments hitherto run on 6 day Sunday off system.

(iv) That pending the hearing and final disposal of this complaint, the

respondents be restrained by an order of Injunction or an order in the nature of injunction from running departments hitherto run on 6 days Sunday off system in the 7 day running system and further restrain the respondents from making any changes in the service conditions as set out in para 23 or at all.

During the pendency of the complaint, an application for interim reliefs was also made praying for grant of interim reliefs in terms of prayer clauses (ii), (iii) and (iv) above.

The Industrial Tribunal after hearing the parties formed an opinion that the interim reliefs prayed for were in the nature of injunctions which cannot be granted in a complaint u/s 33A of the Act. Consequently the application for interim reliefs was rejected by the Industrial Tribunal on 3.9.1998.

2. The Union challenged the above order before the High Court of Bombay, Goa Bench. The learned Single Judge of that Court did not agree with the Industrial Tribunal regarding the maintainability of the prayer for interim reliefs in the nature of injunction in a complaint filed u/s 33A. The Single Judge, accordingly, directed the Industrial Tribunal to decide the Union's application for interim reliefs on merits.

3. Against the order of the Single Judge dated 2.5.2003, the Employer preferred Letters Patent Appeal. The Division Bench of the Bombay High Court in its order dated 12.8.2003 did not agree with the Single Judge and set aside the order dated 2.5.2003. The order of the Industrial Tribunal was restored. It is from this order that the present appeal by special leave has arisen.

4. When a two-Judge Bench of this Court on 8.3.2006 proceeded to hear this appeal, the judgment of this Court in *The Management of Hotel Imperial, New Delhi and Others Vs. Hotel Workers' Union*, was cited. The Bench felt that question for consideration in the appeal was, "Does the Industrial Tribunal has the power to grant reliefs including in the nature of injunction in a complaint filed before it u/s 33A of the Act" which needed to be decided by a Larger Bench in view of the use of expression "matters incidental thereto" in Section 10(4).

5. We have heard Mr. Arshad Sheikh, learned Counsel for the-Union-appellant and Mr. R.F. Nariman, learned senior Counsel for the Employer-respondent.

6. It is an admitted position between the parties that for the last sixteen years no interim injunction in favour of the Union, is operating. At this distance of time, we do not think that it would be in the interest of justice to ask the Industrial Tribunal to consider the question of grant of interim injunction on merits even if it is assumed that power to grant interim injunction exists with the Industrial Tribunal in a complaint filed u/s 33A of the Act.

7. We have been informed by learned Senior Counsel and Counsel for the parties that the main industrial dispute being Ref. (IT) No. 33 of 1997 as well as the complaint made by the Union, which are pending before the Industrial Tribunal of Goa at Panaji can be finally decided within six months.

8. Having regard to the above statement of the parties and the facts of the case, we are, satisfied that it is not necessary to answer the question formulated in the order dated 8.3.2006. The decision of this Court in Hotel Imperial (supra), is holding the field for last 53 years. Then there are decisions of this, Court in Delhi Cloth and General Mills Co. Ltd. Vs. Shri Rameshwar Dyal and Another, Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal and Others, : Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal and Others, M/s. Lokmat Newspapers Pvt. Ltd. Vs. Shankarprasad, which also have some bearing on the aspect of grant of interim reliefs by the Industrial Tribunals under the Act. Obviously, when such question arises in a given case, the same shall be decided by the concerned Industrial Tribunal appropriately having regard to the scheme of the Act and the above decisions.

9. Insofar as the present appeal is concerned, in our view, the direction to the Industrial Tribunal of Goa at Panaji to hear and decide Ref. (IT) No. 33 of 1997 as well as the Complaint (I.D. 4/1998) as early as possible but not later than six months from the date of production of the order of this Court shall meet the ends of justice. We order accordingly. The undertaking given on behalf of both the parties that they shall fully co-operate with the Industrial Tribunal in expeditious disposal of the above industrial disputes as well as complaint is accepted.

The appeal is disposed of as above with no order as to costs.

T.P. (C) Nos. 1058, 1063, 1065 and 1066 of 2008.

In Civil Appeal No. 1007/2004, we did not feel it necessary to decide the question of law referred to the Larger Bench vide order dated 8.3.2006. In view thereof, it is not necessary to consider these transfer petitions on merits.

The matters shall now be decided by the High Court, in accordance with law.

The transfer petitions stand disposed of.