

(2013) 07 RAJ CK 0240

In the Rajasthan High Court

Case No : Civil Special Appeal (W) No. 278 of 2013

J.K. Synthetics Ltd.

APPELLANT

Vs

Labour Court and Another

RESPONDENT

Date of Decision : 12-07-2013

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B, 33C(2)

Citation : (2013) 07 RAJ CK 0240

Hon'ble Judges : Narendra Kumar Jain, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : N.K. Maloo and Ms. Bharti Trivedi, for the Appellant; V.B. Srivastava, for the Respondent

Judgement

1. This intra-court appeal is directed against the order dated 28.01.2013 passed in S.B. Civil Restoration Application No. 924/2012 wherein, the learned Single Judge of this Court found the order dated 09.08.2012, as passed in S.B. Civil Writ Petition No. 14249/2010, being that of the decision of writ petition on its merits, albeit in the absence of the counsel for the petitioner-appellant. The learned Single Judge, therefore, proceeded to reject the application for restoration as not maintainable but left it open for the petitioner-appellant to file an application for review. The principal matter in the writ petition related to an order passed by the Labour Court, Kota on 22.07.2010 on an application u/s 33C(2) of the Industrial Disputes Act, 1947 ("the Act of 1947") whereby the Labour Court, with reference to its award dated 11.02.1992, directed the appellant Company to make payment of an amount of Rs. 10,99,042/- to the respondent-workman together with interest @ 6% per annum from the date of application, i.e., 04.09.2002.

2. When the writ petition (CWP No. 14249/2010) preferred against the aforesaid order dated 22.07.2010 was taken up for consideration on 09.08.2012, nobody was present on behalf of the petitioner-appellant. The learned Single Judge, however, proceeded to dispose of the petition after taking note of the grounds

mentioned in the petition, inter alia, that in view of the tripartite settlement entered into between the parties, benefit to the respondent-workman should not have been computed beyond 12.09.1997; and that pending the proceedings before BIFR and AAIFR, execution proceedings should not have been taken up against the appellant Company. The learned Single Judge found the said contentions untenable with reference to the facts of the case; and held the petitioner-appellant liable to make payment to the respondent-workman in terms of the award dated 11.02.1992. However, the learned Single Judge was of the view that in the proceedings u/s 33C(2) of the Act of 1947, the Labour Court was not justified in awarding interest to the respondent-workman. The learned Single Judge, therefore, partly allowed the writ petition and modified the order impugned to the extent it related to the directions for making payment of interest @ 6% per annum. The petitioner-appellant Company was also held entitled to deduct the amount paid under the interim order earlier passed in the writ petition and u/s 17B of the Act of 1947.

3. As noticed, the aforesaid order dated 09.08.2012 was passed by the learned Single Judge in the absence of the learned counsel for the petitioner-appellant and hence, an application, purportedly seeking restoration, was filed but the same was disallowed by the order under challenge in this intra-court appeal.

4. It is an admitted position that pursuant to the interim order dated 29.11.2010, as passed in the writ petition, the appellant Company did make payment of an amount of Rs. 5,49,521/- to the respondent-workman. It is also not in dispute that apart from the above, an amount of Rs. 1,28,336/- was paid by the appellant Company to the respondent-workman under the requirements of Section 17B of the Act of 1947.

5. Upon taking up of this appeal for consideration, though the learned counsel for the parties gave out the outlines of the several of the submissions sought to be made but, after having examined the subject matter of the case, this Court expressed its tentative views on desirability of amicable resolution of the dispute between the parties, particularly looking to the chequered history of the case and the fact that the respondent-workman is now said to be in an old age of above 73 years as also the fact that the appellant Company is said to have otherwise closed down its enterprise at Kota. The learned counsel for the parties prayed for and were granted time to complete their instructions.

6. Today, the learned Senior Counsel appearing for the appellant has placed before us a print out of e-mail received by him from the Company wherein, the Vice President of the appellant Company has expressed his consent to settle the matter with payment of another amount of Rs. 3,50,000/- to the respondent-workman. The respondent-workman is present in person before the Court and, after due discussions, has agreed to the proposal so made.

7. The learned counsel for the parties submit that the parties have now arrived at a consensus that the appellant Company shall make payment of an amount of

Rs. 3,50,000/- (three lacs fifty thousand) towards full and final settlement of all the claims of the respondent-workman. This payment shall be made by the appellant Company at the earliest; and in any case, before 31.07.2013. As regards the mode of payment, it is agreed by the parties that the appellant Company may make the payment by transfer in the Bank Account of the respondent-workman, particulars whereof have already been supplied to the learned counsel for the appellant Company or in the alternative, by handing him over a demand draft or delivering the same to his counsel. It is agreed that after this payment, the entire claim of the respondent-workman in relation to the award dated 11.02.1992 as also the impugned order dated 22.07.2010 shall stand fully satisfied and there shall be no other claim of either of the parties against the other one.

8. The learned counsel for the parties have placed on record the broad terms of the settlement as arrived at.

9. Having examined the terms of settlement between the parties with reference to the facts and circumstances of the case, we are satisfied that the parties have resolved their dispute with a lawful settlement; and it appears just and proper that the impugned orders be modified in accordance with this settlement.

10. Hence, this appeal stands disposed of while taking note of and approving the settlement as arrived between the parties. The impugned orders shall stand modified accordingly.

11. It is made clear that in view of the settlement between the parties, we have not adjudicated upon the issues which the appellant had to raise in this appeal as against the observations made in the impugned orders dated 09.08.2012 and 28.01.2013. Hence, the observations occurring in the said impugned orders will not prejudice the rights of the appellant Company in making submissions in accordance with law whenever and wherever any occasion there be; and in any such event, the impugned orders may not come in the way of the appellant Company as precedent. No costs.