

(1955) 08 BOM CK 0025
In the Bombay High Court

Kishore Rameshar Powar

APPELLANT

Vs

Labour Appellate Tribunal of India

RESPONDENT

Date of Decision : 10-08-1955

Acts Referred:

Bombay Industrial Relations Act, 1946 — Section 73
Industrial Disputes (Appellate Tribunal) Act, 1950 — Section 7

Citation : (1957) 1 LLJ 270

Hon'ble Judges : Chagla, C.J.;Desai, J

Bench : Division Bench

Judgement

Chagla, C.J.—On 28 August 1950 Government of Bombay referred various disputes between several sugar mills and their employees to the industrial court u/s 73 of the Bombay Industrial Relations Act, 1948. One of the disputes was with regard to housing. The industrial court made its award on 15 October 1954 and with regard to housing it directed the employers that they should provide quarters for farm workers and also gave directions as to the nature of the quarters. Some mills appealed to the Labour Appellate Tribunal. On the question of housing their contention was that the industrial court had no jurisdiction to adjudicate upon that dispute. That contention was negatived by the Appellate Tribunal. The Appellate Tribunal then went into the merits of the decision of the industrial court with regard to housing and modified the directions given by the industrial court. The employees of some of the mills affected have come before us on this petition and the question raised by Mr. Nargolkar is that the Appellate Tribunal had no jurisdiction to interfere with the decision of the industrial court on the question of housing. In the first place Mr. Rege for the sugar mills contends that the Appellate Tribunal had jurisdiction by reason of Section 7 of the Industrial Disputes (Appellate Tribunal) Act, 1950, and what is urged is that a substantial question of law was involved in the dispute. Now, the only substantial question of law involved was whether the industrial court had jurisdiction to adjudicate upon the question of housing and when the Appellate Tribunal disposed of that substantial question nothing further remained. When the

Appellate Tribunal went into the merits of the decision, it was not dealing with the appeal on a substantial question of law but was sitting on judgment upon the decision of the industrial court with regard to the question of housing and the question that we have to consider is whether the law gives a finality to the decision of the industrial court with regard to the question of housing¹. If the law gives it a finality, then that finality cannot be interfered with by the Appellate Tribunal.

2. Now, when we turn to Section 7 of the Industrial Disputes (Appellate Tribunal) Act, 1950, we find that an appeal lies to the Appellate Tribunal from any award or decision of an industrial court if the appeal involves a substantial question of law, or if the award or decision is in respect of any of the matters enumerated in Clause (b) of that section. There are seven matters enumerated in that clause but housing is not one of them. It is, therefore, clear that when an award deals with any matter other than those seven matters mentioned in Clause (b), no appeal lies and the intention of the legislature is that the decision of the industrial court shall be final. Therefore, the decision of the industrial court with regard to housing was intended to be final and not subject to appeal.

3. But Mr. Rege has raised a rather interesting and a novel point that looking to the language of Section 7 in an award is in respect of any matter mentioned in Clause (b), then the whole award becomes appealable and not merely that part dealing with that particular matter. And it is pointed out that the present award also dealt with gratuity, house-rent, retention allowance, provident fund, hours of work, etc., and that gratuity, for instance, is a matter which is mentioned in Clause (b), and, therefore, according to Mr. Rege, inasmuch as the award was also in respect of gratuity the award became appealable, not merely qua gratuity, but as a whole. In our opinion, this contention is entirely untenable and, if we were to accept it, it would completely defeat the intention of the legislature in enacting Section 7. As we have already observed the intention of limiting the jurisdiction of the Appellate Tribunal was to give a finality to certain decisions of the industrial court, and the award was final unless the appellant could satisfy the Appellate Tribunal that a substantial question of law was involved in the appeal. If he failed to do so, then he could appeal on merits only in respect of matters mentioned in Clause (b) of Section 7. It is fallacious to suggest the award in question is one award dealing¹ with one dispute. When we look at the order of reference made by Government, it sets out various disputes between the parties and an adjudication is called for in respect of each one of those disputes. As we shall presently point out, looking at the definition of "award" strictly, what the industrial court has done is to give an award in respect of each one of the disputes referred to it by Government. Government could have made more than one order of reference to the industrial court referring different disputes in different orders of reference or it could pass one comprehensive order of reference. Similarly the industrial court could have made different awards with regard to different disputes or it could have made one comprehensive award dealing with all disputes. But when we have one award dealing¹ with different

disputes, in substance and in fact it is a consolidated document containing the adjudication of the industrial court upon disputes referred to it by Government. And when we look at the definition of "award" given in the Bombay Industrial Relations Act, 1946, "it" is defined as any interim, final or supplementary determination in an arbitration proceeding of any industrial dispute or of any question relating thereto. Therefore, every determination of the industrial court is an award. Housing was one of the industrial disputes referred by Government to the industrial court. Government also referred other industrial disputes to the industrial court. And when the industrial court adjudicated upon the industrial dispute with regard to housing, it gave its award on that industrial dispute. The question whether that award is appealable or not must be decided upon the language of Section 7. If the award is not in respect of any of the matters mentioned in Clause (b) of that section, the award is not appealable unless (?) it involved a substantial question of law. Now in the present case the industrial court had given certain directions in its award with regard to housing which determination in law was to be final and when the Appellate Tribunal interfered with that determination to which law had given a finality it acted without jurisdiction. The petition must, therefore, succeed and the order of the Appellate Tribunal to the extent it modified to housing will be set aside. Respondent 2 will pay the costs of the petition.

4. Same order in special applications Nos. 1192 to 1194 of 1955.