

(1979) 02 SC CK 0026

In the Supreme Court Of India

Case No : Civil Appeal No. 325 of 1979

Workmen of Dodsai Private Ltd.

APPELLANT

Vs

Dodsai Private Ltd. and Another

RESPONDENT

Date of Decision : 06-02-1979

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1979 SC 1072 : (1979) 38 FLR 178 : (1979) 4 SCC 535 : (1979) 11 UJ 344

Hon'ble Judges : V. R. Krishna Iyer, J;O. Chinnappa Reddy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

O. Chinnappa Reddy, J.—We grant special leave to appeal under Article 136 of the Constitution of India and after hearing the learned Counsel for the parties, we proceed to decide the appeal.

2. An Industrial dispute between M/s. Dodsai Private Limited, Bombay and their workmen was referred for adjudication to the Industrial Tribunals Bombay, by the Government of Maharashtra. The dispute concerned wage scales, adjustment and fitment, increment, dearness allowance, special allowance, overtime, medical expenses and maternity benefits. On 30th August, 1971, the Industrial Tribunal made an award introducing revised wage scales with retrospective effect from 1st February, 1967, the date of reference. The Tribunal observed 'the present wage of the workmen shall be the guiding faster for adjustment'. After so observing, the Tribunal linked the wage scales to the index bracket, 661 670, with the direction that dearness allowance should be paid at the rate of Rs. 4 per month for every rise of 10 points over the index. It may be noticed here that index in Bombay was 670 in February 1967. The employer preferred an appeal to the Supreme Court. There was a settlement in the appeal by which the workmen agreed to accept half of the arrears awarded and the employer withdrew its objections to the wage scales awarded by the Tribunal. A fresh dispute arose in

regard to the implementation of the award as modified by the settlement in the Supreme Court. The dispute was in regard to the interpretation of the word "the present wage of the workmen shall be the guiding factory for adjustment". The employers' contention was that 'present wage' referred to the wage that obtained in 1967 whereas the contention of the workmen was that it referred to the wage that obtained in 1971. The dispute was once again referred to the Industrial Tribunal. On an interpretation of the earlier award, the Tribunal came to the conclusion that the expression "present wage" necessarily meant the wage that obtained on 31-8 1971. The employer filed a Writ Petition in the High Court of Bombay under Article 226 of the Constitution. The High Court on a re appraisal of the material came to the conclusion that the expression "present wage" referred to the wage that obtained on 1st February, 1967. The award of the Tribunal was accordingly set aside. The workmen have appealed.

3. We do not think that the High Court was justified in reappraising the material and in seeking to give its own interpretation of the earlier award as if the High Court was exercising appellate powers over the Industrial Tribunal. The interpretation of the earlier award was within the competence of the Industrial Tribunal and the High Court was not right in seeking to displace that interpretation merely because another interpretation was also possible. That the interpretation placed by the Tribunal on the earlier award was not an unreasonable interpretation is obvious from the observation of the High Court that the figures of calculation given by the workmen came closer to the figures worked out by the Tribunal in the earlier award than the figures of calculation given by the employer. No doubt the High Court tried to explain away these figures by observing inter-alia, "True position appears to be that Mr. Aney's calculations did not take into account the changes in his calculated figures which were to flow from making the award effective retrospectively. Apart from other difficulties, annual burden was bound to be far higher if wages as on 31st August, 1971, were to be treated as basic wages on 1st February, 1967, for fitment purposes. Calculation of annual burden at the fiat rate of Rs. 78,000 was wrong. This accounts for the irreconcilable disparity..." Mr. Aney we may mention was the Industrial Tribunal who gave the original award and the figure of Rs. 78,000/- was arrived at by him as the approximate annual burden as a result of the increased wage bill. The High Court was thus going behind the original award dated 30th August, 1971, of the Industrial Tribunal (Mr. Aney) and, in effect questioning the correctness of the figures mentioned by Mr. Aney in his award. That the High Court was not entitled to do. In fact the High Court was conscious that they were not entitled to go behind Mr. Aney's award and therefore, observed "we are not sitting in appeal over Mr. Aney's award and we are not called upon to correct such errors. We have discussed all this to find out if such calculations of burden can furnish light on the vexed question of interpreting the equivocal phraseology". It is clear that the High Court was conscious that another interpretation than that placed by them on the award was possible. In those circumstances the High Court ought not to have interfered with

the present award of the Industrial Tribunal placing its own interpretation on the earlier award. We, therefore, allow the appeal with costs, set aside the judgment of the High Court and restore the award of the Industrial Tribunal.