

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT APPEAL No. 1163 of 2012

JUDGMENT: (per the Hon'ble Sri Justice Dilip B.Bhosale)

By consent of learned counsel for the parties, writ appeal is taken up for final hearing at this stage.

The writ appeal is directed against the order, dated 26.04.2012, whereby respondent No.1's writ petition has been allowed and disposed of as such. In the writ petition, respondent No.1 challenged the award, dated 24.08.2004, passed in I.D.No.562 of 2000 holding that the Labour Court had no jurisdiction to entertain the said dispute.

We do not propose to record the entire history of this case and as to how it travelled since 2000 till the impugned order was passed by the learned Single Judge. Suffice it to say that the Supreme Court *vide* its order, dated 18.11.2002, while issuing notice in the S.L.P. filed by respondent No.1, had directed the Labour Court to hear and dispose of the matter as directed by this Court. Accordingly, the Labour Court decided I.D.No.562 of 2000 *vide* its award, dated 24.08.2004, holding that it has no jurisdiction to entertain the said dispute. This observation seems to have been made in view of the order of the Supreme Court, dated

15.09.1999, in Civil Appeal No.5425 of 1999 filed by Sri Lalith Mathur, Principal Secretary against respondent No.1. In this order, the Supreme Court had observed that it would be open to the respondent therein, i.e. respondent No.1 in the appeal, to challenge the order by which his representation was dismissed on merits, in such proceedings as he may be advised. In view thereof, the respondent filed Industrial Dispute. The Labour Court, while dismissing I.D.No.526 of 2000, observed that the order, dated 15.04.1998, dismissing the representation of respondent No.1 was not challenged and hence, the prayer, as made in the dispute, cannot be considered. According to the learned counsel for the appellant, the industrial dispute, as it was filed for the relief, is also not maintainable in view of the provisions of the Administrative Tribunals Act, 1985.

We do not wish to examine correctness of the award of the Labour Court, holding that it has no jurisdiction to entertain the dispute. It appears to us that the learned Single Judge remanded the matter in view of the order of the Supreme Court, dated 18.11.2002, without examining correctness/legality of the impugned order. In other words, finding as to maintainability of the industrial dispute is not independently recorded. Learned counsel for the parties fairly state that issue of maintainability/jurisdiction was not even argued before the learned Single Judge.

Keeping that in view, learned counsel for the parties without prejudice to their rights and contentions have agreed for the following order:

“The order, dated 26.04.2012, passed in W.P.No.2718 of 2005 is set aside. The writ petition is restored to file. The learned single Judge is requested to consider the challenge raised in the writ petition afresh and dispose it of expeditiously. All contentions of the parties are kept open on merits of the case.”

The appeal is disposed of. No costs.

Consequently, miscellaneous petitions, if any, pending in this appeal also stand disposed of.

DILIP B.BHOSALE,J

A.RAMALINGESWARA RAO,J

Dt:28.01.2015

kdl