

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6029 OF 2014

Naval Employees' Union and anr. ...Petitioners
Versus
Union of India and ors. ...Respondents

Mr. Vishal Kanade I/b Mr. S.N. Gawde for the Petitioner.
Mrs. N.V. Masurkar a/w. Ms Nieyaati V. Masurkar and Mr. P.S. Gujar for the Respondents / UOI.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 09.07.2018.

ORAL JUDGMENT:

- 1] Heard learned counsel for the parties.
- 2] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.
- 3] The challenge in this petition is to the judgment and order dated 3.1.2004 made by the Central Administrative Tribunal (CAT), Mumbai disposing of O.A. No. 133 of 2010 instituted by the petitioners.
- 4] On 2.7.2014, this court made the following order:

"Perused the order passed by the Central Administrative Tribunal, Bombay Bench at Mumbai. The Tribunal has disposed of the original application observing that the judgment delivered by the Madras High Court has been challenged by the Union of India before the Apex Court and the Special Leave Petition is pending. It is further observed that no interim relief has been granted so far by the Apex Court.

It is submitted that the impugned office memorandum, page -26 was subject matter of petition which was decided by the Madras High Court. The said office memorandum was set aside by the Madras High Court. The Tribunal has dismissed the application and vacated the interim relief observing that the Special Leave Petition is pending. Prima facie we are not convinced with the reasoning given by the Tribunal.

Issue notice, returnable after four weeks i.e. 30th July 2014.

Ad-interim relief in terms of prayer clauses (c) and (d)."

5] The CAT, was obviously not right in refusing to entertain O.A. No. 133 of 2010 merely because, the decision of the Madras High Court, which was in fact, in favour of the petitioners had been challenged by the respondents – UOI before the Hon'ble Apex Court and further, a notice had been issued therein in the Special Leave Petition instituted by the Union of India.

6] Ms Masurkar, learned counsel for the respondents, did try to submit that the petitioners are not entitled to any of

the reliefs applied for by them in their O.As.. However, realising the CAT has not even examined the case of the petitioners on merits, she agreed to impugned judgment and order dated 3.1.2014 being set aside and the matter being remanded before the CAT for fresh adjudication on merits.

7] According to us, rather than examine the matter on merits for the first time, it will be appropriate if the impugned judgment and order dated 3.1.2014 is set aside and the O.A. No. 133 of 2010 is restored to the file of CAT for fresh adjudication in accordance with law and on its own merits. We, therefore, order accordingly.

8] We clarify that since during the pendency of O.A. No. 133 of 2010 and thereafter, by virtue of our order dated 2.7.2014, the interim order was in operation, in favour of the petitioners, such interim order shall continue in operation until the CAT disposes of O.A. No. 133 of 2010 on its own merits.

9] We also clarify that since we have not examined the matter on merits, all contentions of all parties are specifically kept open for examination and adjudication by the CAT in O.A. No. 133 of 2010 which we have now restored to the file of the CAT.

10] Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

11] Parties to appear before the CAT on 6.08.2018 at 10.30 a.m. and produce an authenticated copy of this order.

12] All concerned to act on the basis of authenticated copy of this order.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Dinesh
Sadanand
Sherla

Digitally signed by
Dinesh Sadanand
Sherla
Date: 2018.07.11
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