

Urmila Ingale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7815 OF 2018

Milind Yashwant Kambale	..Petitioner
VS.	
The Regional Manager, Bank of Maharashtra	..Respondent

Mr. Sandeep C. Gurav, for petitioner.
Mr. Neel G. Helekar, for respondent.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 11, 2022

P.C. :

1. Learned counsel for the petitioner has challenged the award dated 09/08/2016 passed by the Industrial Tribunal No.2 at Kolhapur (hereafter "the Tribunal", for short) in respect of a reference made by the Government of India pertaining to the compulsory retirement of the petitioner. The impugned order is a Part-1 award. Learned Tribunal held that the reference is maintainable. The enquiry conducted by the enquiry officer is fair, legal and proper and findings of the enquiry officer are proper. Learned counsel

for the petitioner submitted that the impugned order is unsustainable as no proper opportunity was given to the petitioner to represent his case before the Tribunal before passing of the part one award. I find that the Part-1 award was delivered on 09/08/2016. I am informed that next date fixed before the Industrial Tribunal Kolhapur is tomorrow i.e. 12/10/2022.

2. Learned counsel for the respondent invited my attention to the decisions of the Hon'ble Supreme Court in case of **The Cooper Engineering Limited Vs. Shri P.P. Mundhe**¹ and in the case of **D.P. Maheshwari Vs. Delhi Administration and ors.**² to contend that the Supreme Court has clearly observed that there will be no justification for any party to stall the final adjudication of the dispute filed by the Labour Court by questioning its decision with regard to the preliminary issue when the matter, if worthy, can be agitated even after the final award.

3. In view of the law laid down by the Supreme Court, I do not find this is a fit case to intervene in the challenge to

1 (1975) 2 Supreme Court Cases 651

2 (1983) 4 Supreme Court Cases 293

the Part-1 award at this stage.

4. In the light of law laid down by the Hon'ble Supreme Court, in my opinion, there is no justification for the petitioner to stall the final adjudication of the dispute by the Tribunal by questioning its decision with regard to the Part-1 award at this stage. Liberty is open to the petitioner to challenge the Part-1 award in appropriate proceedings after the final adjudication of the Reference (IT) No. 2 of 2008.

5. Considering that reference is of the year 2008, it will be in the interest of justice that the Tribunal is requested to finally adjudicate the reference as early as possible and preferably within a period of 6 months from 12/10/2022. The copy of this order to be placed on record before the Tribunal. The parties to co-operate.

6. It is open for the petitioner to challenge the Part-1 award in appropriate proceedings after the final adjudication. Keeping all contentions open, the writ petition is disposed of. No costs.

(M. S. KARNIK, J.)