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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9221 OF 2018**

National Federation of
General Insurance Employees .. Petitioner

Vs.

Union of India & Anr. .. Respondents

Mr. Jaiprakash Sawant for petitioner.
Mr. Yashodeep Deshmukh a/w Ms. Vaidehi Deshmukh a/w
Ketaki Mulik for respondent no.1.
Ms. Nandini G. Menon for respondent no.2.

**CORAM: DIPANKAR DATTA, CJ. &
ABHAY AHUJA, J.**

DATE : DECEMBER 6, 2022

P.C.:

1. This writ petition is at the instance of a Trade Union, which is espousing the cause of Shri Dinesh H. Jadhav, Sr. Assistant. It is directed against an order dated 4th January, 2018 of the Government of India, Ministry of Labour & Employment, declining to refer an industrial dispute for adjudication by the appropriate Industrial Tribunal on the following ground: -

“The workman has not disputed the inquiry. The punishment was imposed after meeting end of natural justice and sufficient opportunity was extended to workman for his defence.”

2. We have heard learned advocates for the respective parties and considered the materials on record.

3. In our view, the Central Government has usurped the power of the Industrial Tribunal and adjudicated the industrial dispute between the Union and the employer, i.e., respondent no.2. Whether or not punishment was inflicted by the respondent no.2 on Shri Dinesh H. Jadhav in compliance with principles of natural justice and after extending sufficient opportunity, is a matter which requires consideration by the Industrial Tribunal once the dispute is referred for adjudication.

4. Mr. Deshmukh, learned advocate for the respondent no.1 and Ms. Menon, learned advocate for the respondent no.2, however, have raised the question of delay in raising of an industrial dispute by the Union. We do not find that the reference was declined by the Central Government on the ground of delay. It is settled law that validity of an order has to be judged on the basis of the reason(s) assigned therein and such order cannot be supported by additional reason(s) given in an affidavit or even through oral arguments.

5. Mr. Sawant, learned advocate for the petitioner has brought to our notice an order dated 2nd February, 2015 issued by the Central Government, whereby a dispute of similar nature was referred to the Central Government Industrial Tribunal-cum-Labour Court No.2, Mumbai for adjudication. According to him, there was no earthly reason for the Central Government to take a different view on the industrial dispute raised by the Union on behalf of Shri

Dinesh H. Jadhav since he as well as the employees mentioned in the order dated 2nd February, 2015 faced common inquiry proceedings.

6. In our view, the matter deserves to be remitted to the Central Government for a fresh decision in the light of the order dated 2nd February, 2015 as well as in the light of the ground of delay, raised by the learned advocates for the respondents 1 and 2.

7. In such view of the matter, the impugned order declining reference is set aside being unsustainable in law. The Central Government shall take an appropriate decision on the industrial dispute raised by the Union on 9th January, 2017 strictly in accordance with law. A fresh order shall be passed within four weeks of uploading of this order on the website of this Court.

8. All contentions are left open.

(ABHAY AHUJA, J.)

(CHIEF JUSTICE)

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