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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 508/2021 & CM APPL. 47191/2021 -Stay

STANDING CONFERENCE OF PUBLIC ENTERPRISES

..... Appellant

Through: Ms. Meenakshi Arora, Sr. Adv. with
Mr. Om Prakash, Mr. Anshul Parashar, Advs.

versus

GOVT. OF NCT OF DELHI AND ORS

..... Respondent

Through: Mr. Salman Khurshid, Sr. Adv. with
Mr. Rajesh Kumar, Mr. Aman Khullar, Ms.
Roshini W. Anand, Ms. Mishika Pandita, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

04.01.2024

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1. The present appeal under Clause X of the Letters Patent Appeal assails the judgement dated 01.02.2018 passed by the learned Single Judge in W.P.(C) 5830/2004, whereby the appellant's challenge to the award dated 02.12.2003 passed by the learned Industrial Tribunal was rejected. The appellant also assails the subsequent judgement dated 29.01.2020, whereby the review petition filed by it was dismissed.
2. The primary ground on which the appellant has approached this Court to assail the judgement dated 01.02.2018, which was also the ground on which the review petition was filed, is that the learned senior counsel, who had argued the writ petition on behalf of the petitioner, had without any instructions confined his challenge to the impugned



award only to the question of the maintainability of the reference made to the Industrial Tribunal. In support of the present appeal Ms. Arora, learned senior counsel for the appellant, submits that in the writ petition filed by the appellant, besides the plea of non-maintainability of the reference, various other substantive grounds were also raised, which have not been decided by the learned Single Judge. She contends that the learned senior counsel who was representing the appellant before the learned Single Judge had without any instructions given up the other grounds on which the impugned award is liable to be set aside, thereby causing grave and irreparable loss to the appellant. She, therefore, prays that the impugned judgements be set aside and the matter be remanded to the learned Single Judge for consideration of the appellant's challenge to the impugned award on all the other grounds raised in the writ petition as also the detailed written submissions filed before the learned Single Judge.

3. On the other hand, learned senior counsel for the respondents supports the impugned judgements and submits that the appellant having given up the challenge to the award on other grounds, ought not be permitted to reargue the matter. He is, however, not in a position to deny that the appellant had, besides the ground of maintainability of reference, raised various substantive pleas in the writ petition to assail the impugned award.
4. From the record, it emerges that hearing of the present appeal was being deferred from time to time to enable the parties to amicably resolve the matter. It, however, appears that the efforts made by the



parties to resolve the matter amicably have succeeded only partially with some of the workmen having still not settled with the appellant. As per Mr. Salman Khurshid, learned senior counsel for the respondents, about 22 workmen have not settled with the appellant, and are therefore desirous of adjudication of the petition on merits. This number is, however, only 13 according to Ms. Arora, learned senior counsel for the appellant.

5. Having considered the rival submissions of the parties and the admitted position that most of the grounds of challenge to the impugned award as raised by the appellant were not even considered by the learned Single Judge and taking into account that the *lis* between the parties has been pending adjudication before one Court or the other for more than 22 years, this Court is of the view that it will be in the interest of justice that the matter is expeditiously decided on merits with reference to all the grounds raised in the writ petition. However, taking into account that it is the appellant and their counsel, who are to be blamed for having pressed only one out of the various grounds before the learned Single Judge, even though this Court is inclined to grant another opportunity to the appellant to urge all the other grounds, the same has to be subject to imposition of costs.
6. The appeal is, accordingly, allowed by setting aside the judgements dated 01.02.2018 and 29.01.2020. The writ petition is subject to payment of costs of Rs.2,00,000/- remanded to the learned Single Judge for consideration thereof on all grounds raised in the writ petition other than the one already decided under the impugned judgments. It is, however, made clear that the remand of the matter to



the learned Single Judge will not be seen as an expression of opinion on the findings regarding the maintainability of the reference already rendered in the impugned judgements. Taking into account that there are about 22 contesting respondents, the costs in terms of this order will be paid by the appellant within two weeks to Mr. Rajesh Kumar, the learned counsel for the respondent nos.2-23.

7. The matter be listed before the learned Single Judge on 24.01.2024 for consideration. As pleadings in the writ petition are already complete and the matter has remained pending for the last many years, the learned Single Judge is requested to endeavour to decide the writ petition within a period of four months after considering all the grounds which were not dealt with in the impugned judgements.

REKHA PALLI, J

DR.SUDHIR KUMAR JAIN, J

JANUARY 4, 2024

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