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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision:- 02.02.2024***

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LPA 93/2024**PEET VASAN BIHARI**

..... Appellant

Through: Mr.Chetan Sharma, ASG with
Mr.S.Sirish Kumar, Mr.Amit Gupta,
Mr.R.V.Prabhat, Mr.Vikramadiya Singh, Advs.

versus

GOVIND SINGH BISHT & ORS.

..... Respondent

Through: Mr.Ankur Yadav with Mr.Shashank
Shekhar, Mr.Apoorva Singh, Advs.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE GIRISH KATHPALIA****REKHA PALLI, J(ORAL)****CM APPL. 6259/2024 -Ex**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CAV 47/2024

3. Since, learned counsel for the respondents enters appearance, the caveat stands discharged.

LPA 93/2024 & CM APPL. 6258/2024 -Stay

4. The present appeal under Clause X of the Letters Patent seeks to assail the common order dated 28.11.2023 passed by the learned Single Judge in Cont.Cas(C)No.263/2023 and W.P.(C)2644/202023.
5. Vide the impugned order, the learned Single Judge has directed the appellant to comply with the interim order dated 29.11.2018 passed by the



learned Central Government Industrial Tribunal(CGIT) during the pendency of the industrial dispute raised by the respondents, which industrial dispute stands culminated in an award dated 03.11.2022. The said award is subject matter of challenge in WP(C) 2644/2023 which is pending adjudication.

6. The Learned ASG, who appears on behalf of the appellant, submits that the learned Single Judge, while issuing directions to the appellant, has failed to appreciate that the interim directions issued by the learned CGIT on 29.11.2018 stood merged with the final award passed on 03.11.2022. This final award has been assailed by the appellant by way of WP(C) 2644/2023 wherein the learned Single Judge, vide its order dated 02.03.2023, while issuing notice in the petition, has stayed the operation of the award dated 03.11.2022 by directing the appellant to maintain status quo qua the services of the respondents. He, therefore, contends that the appellant could not now be directed to comply with the interim directions issued by the CGIT on 29.11.2018.

7. After some arguments, he concedes that in view of the order dated 27.01.2022 passed in WP(C) 8597/2019, the appellant is bound to pay the respondents for the period between 29.11.2018 to 02.03.2023 in accordance with directions issued by the CGIT on 29.11.2018 and thereafter once the final award dated 03.11.2022 was stayed by this Court on 02.03.2023, the appellant is ready to pay to the respondents as per the office order dated 16.08.2021.

8. Issue notice. Learned counsel for the respondents accepts notice and submits that merely because the final award has been stayed, would not imply that the appellant should not comply with the order dated 27.01.2022. He further submits that the respondents have already moved an application



seeking vacation of the interim stay granted on 02.03.2023, which is pending consideration before the learned Single Judge. He contends that since the application for vacation of stay was pending consideration, the appellant was required to comply with the order dated 27.01.2022, which in turn directed them to comply with the interim directions issued by the CGIT on 29.11.2018. He further submits that a perusal of the order dated 02.03.2023 staying the final award shows that only the directions for regularisation have been stayed and therefore the learned Single Judge has rightly directed the appellants to comply with the order dated 27.01.2022. He, therefore, prays that the appeal be dismissed.

9. Having considered the submissions of learned counsel for the parties and perused the records, we are of the considered view that after the final award was passed on 03.11.2022, the interim directions issued by the CGIT on 29.11.2018 were no longer binding on the parties as they were now to be governed by the final award. Further taking into account that it is an admitted position that the operation of the final award dated 03.11.2022 has been stayed vide an order passed by this Court on 02.03.2023, wherein the only protection given to the respondents was that status quo qua their services will be maintained, we are of the view that the appellant could not be directed to comply with the earlier interim order passed by the CGIT, as the said order stood merged with the final award.

10. Learned Counsel for the respondent has vehemently urged that since an application to seek vacation of the order dated 02.03.2023 has already been filed, the learned Single Judge was justified in directing the appellant to abide by the interim directions issued by the CGIT on 29.11.2018, as directed by this Court on 27.01.2022. We have given our thoughtful



consideration to this submission but are of the view that no such directions to comply with the earlier interim directions passed by the CGIT could have been passed without modifying the order granting stay on 02.03.2023. Till the order dated 02.03.2023 is recalled or modified, both sides are to be governed only by this order, which as noted herein above, has stayed the final award while directing the appellant to maintain status quo qua the services of the respondents. The impugned order being wholly unsustainable is, accordingly, set aside.

11. However as stated by the learned ASG, the appellant will pay to the respondents, the amount in terms of the order dated 29.11.2018 passed by the learned CGIT for the period between 29.11.2018 to 02.03.2023, whereafter the appellant will pay them as per their office circular dated 16.08.2021. Arrears in terms of this order will be paid within a period of eight weeks from today.

12. The appeal is disposed off in the aforesaid terms.

(REKHA PALLI)
JUDGE

(GIRISH KATHPALIA)
JUDGE

FEBRUARY 2, 2024

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