

A KRISHI UTPADAN MANDI SAMITI, ACHANERA AND ANR.

v.

VINOD KUMAR

(Civil Appeal No. 3539 of 2006)

JANUARY 30, 2008

B

[DR. ARIJIT PASAYAT AND S.H. KAPADIA, JJ.]

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Constitution of India, 1950 – Art. 226 – Labour dispute – Award of Labour Court – Writ petition against, by workman – High Court reserved judgment, the very first day the matter was listed before it, and 3½ months later delivered judgment allowing the writ petition – Held: Without issuance of notice, on the first day itself the judgment was reserved and the award of Labour Court set aside – Hence, matter remitted to High Court for fresh adjudication – Practice and Procedure.

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Respondent-workman filed writ petition challenging the award passed by Labour Court. The matter was listed before the High Court for the first time on 27-8-2003 and on that date itself the judgment was reserved by High Court. The judgment was ultimately delivered on 19-12-2003 whereby the writ petition filed by Respondent-workman was allowed. Hence the present appeal.

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Remitting the matter to High Court, the Court

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HELD: Though the judgment was purportedly delivered on 19-12-2003, same was not in the list. The parties were not aware of the judgment delivered which is evident from the fact that the counter affidavit was filed by the appellant on 16-01-2004 and the rejoinder by the respondent was filed on 29-04-2004. It is, therefore, submitted by the Appellant that without issuance of the notice, on the first day itself the judgment was reserved and the award of the Labour Court was set aside. This position is not disputed by the Respondent. In the aforesaid background, the impugned order of the High

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Court is set aside and the matter remitted to it for fresh adjudication. [Paras 4, 5] [234-A, B, C] A

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 3539 of 2006.

From the final Judgment and Order dated 19.12.2003 and 27.8.2004 of the High Court of Judicature at Allahabad in C.M.W.P. No. 37181/2003 and C.M. (Recall) Application No. 113220 of 2004 in C.M.W.P. No. 37181/2003 respectively. B

Pradeep Misra for the Appellants. C

Gaurav Jain and Abha Jain for the Respondent.

The Judgment of the Court was delivered by

Dr. ARIJIT PASAYAT, J. 1. Challenge in this appeal is to the order passed by a learned Single Judge of the Allahabad High Court allowing the writ petition filed by the respondent and dismissing the review petition filed by the present appellant. D

2. The factual scenario need not be referred to in detail. In a nutshell the position is as follows:

Respondent aggrieved by an award of the Labour Court dated 20.2.2003 filed a writ petition under Article 226 of the Constitution of India, 1950 (in short 'Constitution'). The dispute which was referred to before the Labour Court for adjudication read as follows: E

"Whether termination of services by the employers of their workman Shri Vinod Kumar, S/o Shri Shiv Charan Lal, Mandi Assistant w.e.f. 10.01.1998 is legal and/or valid? If not, then to what relief or benefit the workman is entitled to get?" F

3. The Labour Court after issuance of the notice to the parties held that the Subzi Mandi was not an industry and further the workman had been appointed for 89 days on ad hoc basis. The said award was challenged before the High Court. The matter was listed on 27.8.2003 for the first time and on that H

A date the judgment was reserved and delivered on 19.12.2003.

B 4. According to learned counsel for the appellants the notice was given on 23.8.2003 and the matter was listed on 27.8.2003. Though the judgment was purportedly delivered on 19.12.2003, same was not in the list. The parties were not aware of the judgment delivered which is evident from the fact that the counter affidavit was filed by the present appellant on 16.1.2004 and the rejoinder by the present respondent was filed on 29.4.2004. It is, therefore, submitted that without issuance of the notice, on the first day itself the judgment was reserved and the award of the Labour Court was set aside. This position is not disputed by the learned counsel for the respondent.

C 5. In the aforesaid background, we set aside the impugned order of the High Court and remit the matter to it for fresh adjudication. To avoid unnecessary delay, let the parties appear before the High Court before the appropriate Bench on 14th March, 2008 without further notice. Since the counter affidavit and rejoinder have been filed, they are to be taken into consideration and if any other further documents are to be filed, the same shall be done by the 7th March, 2008.

D 6. Hon'ble the Chief Justice of the High Court is requested to fix an appropriate Bench for hearing of the matter.

E 7. The appeal is accordingly disposed of. No costs.

F B.B.B.

Appeal disposed of.