

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.81 OF 2020
(Arising out of S.L.P.(Civil)No.4482 of 2019)

THE MANAGING DIRECTOR, THE PUNJAB STATE
COOPERATIVE MILK PRODUCERS' FEDERATION LTD.
& ANR. ...Appellants

Vs.

WORKMEN OF THE PUNJAB STATE COOPERATIVE
MILK PRODUCERS FEDERATION LTD. ...Respondent

O R D E R

1. Leave granted.
2. Heard learned counsel for the appellants as none has chosen to appear for the respondent despite service.
3. The Presiding Officer/Industrial Tribunal, Punjab, Camp at Ludhiana adjudicated Reference No.66 of 1991 which was in respect of an industrial dispute between the management and workmen of the Punjab State Cooperative Milk Producers Federation Limited. The workmen, relying on the annual balance sheet, claimed that the management had earned huge profits with the assistance of the workmen but the management had given bonus to its workers @ 8.33% while they were entitled to more than 20% bonus for the period 1983-84 to 1989-90. This claim was challenged by the appellant-management. On a perusal of the material on record the Tribunal rendered its finding vide Award dated 23rd

November, 1989. The Tribunal found that the unit where the workers were employed was not to be treated as a separate established for the purposes of computation of bonus and thus the entitled bonus had been paid to the workmen.

4. The workmen assailed this order by filing writ petition before the Punjab and Haryana High Court being CWP No.1872 of 1995. The said writ petition was allowed vide judgment dated 7th September, 2016. The rationale for this judgment has been set out as under:

"Therefore, an inference can be drawn to the extent that the respondents have prepared balance sheet and profit and loss accounts of Cattle Feed Plant, Bhattian independently. Had they prepared consolidated balance sheet and profit and loss accounts of Milkfed, for the disputed years they could have placed on record, so as to demonstrate that Cattle Feed Plant, Bhattian, is part and parcel of Milkfed for the purpose of preparation and publication of balance sheet and profit and loss accounts of Milkfed. Hence, documents attached to Annexure P-7, namely, balance sheet and Auditors report, which supports the claim of the petitioners-Union, is to be taken into consideration and the fact that the respondents failed to produce consolidated balance sheet before the Industrial Tribunal and in the present matter. Cattle Feed Plant, Bhattian, undisputedly maintaining separate balance sheets and profit and loss accounts."

5. The appellant filed LPA No.2200 of 2017 assailing the aforesaid order. The appeal was filed in time but there was a delay of 365 days in refiling. On the appeal coming up

for admission on 17th November, 2017, errors were found in the annexures and the appeal was withdrawn with liberty to file fresh appeal which was allowed vide the order of even date. It was thereafter LPA No.2341 of 2017 was filed which has been dismissed by the impugned order dated 9th October, 2018 on grounds of being barred by time. The Division Bench noticed that the cumulative delay was 428 days.

6. On hearing learned counsel for the appellants, respondent being unrepresented, we are unable to sustain the impugned order for the reason that once permission was granted to file rectified appeal on 17th November, 2017 the delay thereafter was not abnormal. The real delay was in refiling in LPA No.2200 of 2017 of 365 days, an aspect which could have been taken care of by imposition of costs.

7. The submission of the learned counsel for the appellants is that the ground given by the learned Single Judge of failure to produce consolidated balance sheet is factually not borne out of the record as the said balance sheet was filed and taken note of by the Tribunal. This is ofcourse an aspect to be examined in the LPA.

8. We are thus of the view that the delay in refiling of the earlier LPA and some delay in filing the appeal thereafter is liable to be condoned and the matter be remitted to the Division Bench to examine the case on merits more specifically in the context of submission made before us on the aspect of the learned Single Judge interfering

with the award of the Tribunal on what is stated to be not borne out from the record.

9. The impugned order is set aside and the appeal is accordingly allowed leaving the parties to bear their own costs.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[K.M. JOSEPH]

New Delhi;
January 8, 2020.

ITEM NO.38

COURT NO.12

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 4482/2019

(Arising out of impugned final judgment and order dated 09-10-2018 in LPA No. 2341/2017 passed by the High Court of Punjab & Haryana at Chandigarh)

THE MANAGING DIRECTOR THE PUNJAB STATE COOP.
MILK PRODUCERS FEDERATION LTD & ANR.

Petitioner(s)

VERSUS

WORKMEN OF THE PUNJAB STATE COOPERATIVE MILK
PRODUCERS FEDERATION LTD

Respondent(s)

(IA No. 26006/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 08-01-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Tushar Bakshi, AOR
Mr. Gauravjit Singh Patwalia, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the appellants.

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application shall also stand disposed of.

(ANITA MALHOTRA)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

(Signed order is placed on the file.)