CASE NO.:
Appeal (civil) 8489 of 2001

PETITIONER:
M/s Trambak Rubber Industries Ltd.

RESPONDENT:
Vs.
Nashik Workers Union & Ors.

DATE OF JUDGMENT: 16/07/2003

BENCH:
K.G. BALAKRISHNAN & P. VENKATARAMA REDDI.

JUDGMENT:

J U D G M E N T

P. VENKATARAMA REDDI, J.

Whether the High Court in exercise of its jurisdiction under Article 226/227 of the Constitution of India was justified in reversing the award of the Industrial Court of Maharashtra and directing reinstatement of 72 workers? That is the question which is presented before us.

Three complaints filed before the Industrial Court under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act (for short 'the Act')â\200\224two of them by the workers unions and the other by the Management of the industryâ\200\224both alleging unfair labour practices under various clauses of the schedules to the Act, have eventually led to these appeals.
It is apparent from the record that the persons concerned (who, according to the Management, were only trainees) were not allowed to resume work on and from 14.8.1989 unless an undertaking on the terms imposed by the employer was given. According to the Management, their 'traineeship' was terminated with effect from 15.11.1989. Some other workmen were later on employed by the appellant. The details of allegations and counter allegations as to what prompted the Management to dispense with their services need not be gone into. Each side tried to shift the blame on the other for the ultimate action taken. It should however be noted that despite the interim order dated 25.4.1990 passed by the Industrial Court, the appellant did not take them back to duty, as seen from the report of Investigation Officer appointed by the Industrial Court.
The core question before the industrial Court as well as the High Court was whether the persons whose engagement was terminated were the employees within the meaning of Section 3(5) of the Act read with Section 2(s) of the Industrial Disputes Act. The industrial Court upheld the plea of the Management that they were trainees. In recording the conclusion that they were trainees, the industrial Court adverted to two factors: (1) Neither the Complainant Union nor the Management had placed on record the appointment letters that would have been issued when the concerned persons were recruited in 1988. (2) On the Complainant Union's own showing, the Management started issuing appointment letters appointing them as trainees only after 23.6.1989, which itself would negative the case of the Union that they were employed as labourers. The learned presiding officer of Industrial Court then observed thus: "I may say that merely because the trainees were employed for performing regular nature of work, would not by itself make them workmen".

Then, the Court observed that a trainee is not equivalent to a workman "unless there is sufficient evidence of existence of employer-employee relationship". The Industrial Court ultimately held that the Management's action terminating the training programme resulting in their unemployment from 14.8.1989 cannot confer on them the right to resume work and claim back wages.
On these findings/observations, the complaints of the workers' union were dismissed. The complaint petition filed by the Management was also dismissed.

The High Court, conscious of its limitations under Article 226/227 of the Constitution of India, went into the question whether the conclusions reached by the Industrial Court were legally sustainable. Incidentally, it went into the question whether the Industrial Court ignored the material evidence on record. The one and only view that could be taken on the basis of the evidence on record, according to the High Court, is that the concerned persons whose engagement was terminated were not trainees but they were 'Workmen' and therefore, their services could not have been terminated without following the due procedure. The High Court held that the action taken by the Management was an unfair labour practice within the meaning of the Act and directed reinstatement without backwages.

The learned senior counsel for the appellant has contended that it was not open to the High Court to appreciate the evidence and take its own view on the crucial factual aspects emerging in the case. The learned counsel also submitted that there is no legal error apparent on the face of the order passed by the Industrial Court and reminded us of the proposition that even a grossly erroneous finding of fact reached by the Tribunal cannot be interfered with by High Court in exercise of its jurisdiction under Article 226/227 of the Constitution of India. In this context, the learned counsel has endeavoured to draw support from the observations in Syed Yakoob Vs. K.S. Radhakrishnan & Others [(1964) 5 SCR 64].
We are of the view that the High Court has not transgressed the limitations inherent in the grant of the writ of certiorari. The High Court had rightly perceived of patent illegality in the impugned award warranting interference in exercise of its writ jurisdiction. The High Court is right in pointing out that the material evidence especially the admissions of the witness examined on behalf of the Management were not considered at all. Moreover, the conclusions reached are wholly perverse and do not reasonably follow from the evidence on record. For instance, the fact that no appointment letters were issued or filed does not possibly lead to the conclusion that the Management's version must be true. Similarly, if the workers' unions had taken the stand that ante-dated appointment letters were issued describing the employees as trainees after the dispute had arisen, it is difficult to comprehend how that would demolish the case of the Union that the concerned persons were really employed as workmen (helpers) but not as trainees. The Industrial Court makes a bald observation that there was no satisfactory evidence on record to suggest that these persons were employed by the respondents as 'regular' employees at any point of time. This bald conclusion/observation, as rightly pointed out by the High Court, ignores the material evidence on record. In fact, the evidence has not been adverted to at all while discussing the issues. There was total non-application of mind on the part of the Tribunal to the crucial evidence. The Management's witness categorically stated that the concerned workers were engaged in production of goods and that no other workmen were employed for production of goods. In fact, one of the allegations of the Management was that they adopted go-slow tactics and did not turn out sufficient work. According to the Industrial Court, the fact that the 'trainees' were employed for performing the regular nature of work would not by itself make them workmen. The

question then is, would it lead to an inference that they were trainees? The answer must be clearly in the negative. No evidence whatsoever was adduced on behalf of the Management to show that for more than one and half years those persons remained as 'trainees' in the true sense of the term. It is pertinent to note the statement of the Management's witness that in June-July, 1989, the Company did not have any permanent workmen and all the persons employed were trainees. It would be impossible to believe that the entire production activity was being carried on with none other than the so-called trainees. If there were trainees, there should have been trainers too. The Management evidently came forward with a false plea dubbing the employees/workmen as trainees so as to resort to summary termination and deny the legitimate benefits. On the facts and evidence brought on record, the conclusion was inescapable that the appellant-employer resorted to unfair labour practice. There would have been travesty of justice if the High Court declined to interfere with the findings arbitrarily and without reasonable basis reached by the Industrial Court.

Before parting with the case, we may record that opportunity was given to the parties to arrive at an amicable settlement. But it has been reported that the quantum of compensation offered by the Management is utterly inadequate and therefore the settlement could not be reached.

In the light of the foregoing discussion, we find no legal infirmity in the order of the High Court. The appeal is therefore dismissed. No costs.