

CASE NO.:
Appeal (civil) 1404 of 2008

PETITIONER:
Central Mine Planning & Design Institute Limited & Ors

RESPONDENT:
Jayant & Ors

DATE OF JUDGMENT: 18/02/2008

BENCH:
S.H. KAPADIA & B. SUDERSHAN REDDY

JUDGMENT:
JUDGMENT

O R D E R

CIVIL APPEAL NO.1404 OF 2008
(Arising out of S.L.P.(C) No.20591/2007
W I T H
CIVIL APPEAL NO.1405 OF 2008
(Arising out of S.L.P.(C) No.20595/2007

Leave granted.

These Civil Appeals are directed against the judgment dated 6th July, 2007 passed by the High Court of Bombay, Nagpur Bench, in Writ Petitions Nos.2103/2003 and 2190/2003.

The appellant Company is a subsidiary of Coal India Limited.

The challenge before the High Court in the above writ petitions filed by Koyala Udyog Kamgar Sanghathan was to the action of the Management in effecting recovery of HRA allegedly paid in excess to non-executive employees stationed at Nagpur (A Class). The said recovery was made by the Management purportedly on the ground that revised

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formula for payment of HRA in terms of Wage Agreement No.VI stood implemented with effect from 1.7.1999 and not from 1.7.1996 as contended by the Sangathan. It is contended by the Management that except the member-employees of the Sangathan, all other Unions in other regions understood the payability of HRA with effect from 1.7.1999. This contention of the Management for recovering the so-called excess amount was not accepted by the High Court in its impugned judgment. Hence these Civil Appeals.

We are confining our order expressly to the facts of this case. On facts of this case, we are of the view that this is a harsh case as not only the amount of Rs.9,56,036/- was paid to the employees but even tax was paid by the workers thereon. Further on reading Annexure C1 dated 23.5.2002, it is clear that CFO had acted on some communications from the Central Office which were capable of two interpretations. The instructions to CFO were not clear for which no fault lay at the doorsteps of the member-employees of the Sangathan.

We are informed that on question of interpretation of the Wage Agreements Nos. V and VI and on above Instructions issued by the Standardization Committee, writ petitions have been filed by other Unions which are pending before the Kolkata High Court.

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Treating this case as a stand-alone case and without expressing any opinion on the interpretation of the Wage Agreements Nos.V and VI and the above Instructions, we direct the Management to pay to the Respondent-Sangathan herein/its member-employees the said sum of Rs.9,56,036/- within eight weeks. Arguments on both sides are kept open. Our present order will not be cited as a precedent in the pending or future proceedings adopted/to be adopted by other Unions which will be decided on their own merits uninfluenced by the observations made in the impugned judgment of the Bombay High Court. Before concluding, we clarify that the said amount of Rs.9,56,036/- will be paid without interest.

These Civil Appeals are disposed of accordingly, with no order as to cost.

JUDIS