A CENTRAL BOARD OF TRUSTEES

v.

M/S INDORE COMPOSITE PVT. LTD.

(Civil Appeal No. 7240 of 2018)

B JULY 26, 2018

[ABHAY MANOHAR SAPRE AND NAVIN SINHA, JJ.]

Practice and Procedure – Dismissal of writ petition by unreasoned order – Propriety of – Appellant issued summons to the respondent for non-payment of the Provident Fund contribution in the year 2005-2006 and ordered the respondent to pay inter alia *damages for the delayed payments – Respondent filed appeal, which was allowed by Employees Provident Fund Tribunal – Appellant filed writ petition, which was dismissed by Division Bench of the High Court – On appeal, held: Division Bench dismissed the writ petition cursorily without dealing with any of the issues arising in the case as also the arguments urged by the parties in support of their case – Only expression used by the Division Bench in disposing of the writ petition is "on due consideration" – It is not clear as to what was that due consideration which persuaded the Division Bench to dispose of the writ petition – Courts need to pass reasoned order in every case containing facts, issues arising in the case, submissions urged by the parties, legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case – Division Bench failed to keep these principles in mind, causing prejudice to the parties – Impugned order set aside – Matter remanded to the Division Bench for deciding the writ petition on merits – Employees Provident Fund and Miscellaneous Provisions Act, 1952 – ss.7A, 7C, 7Q and 14B.*

Allowing the appeal, the Court

HELD: 1.1 The Division Bench dismissed the writ petition filed by the appellant cursorily without dealing with any of the issues arising in the case as also the arguments urged by the parties in support of their case. [Para 13] [1133-E]

1.2 Indeed, in the absence of any application of judicial mind to the factual and legal controversy involved in the appeal and without there being any discussion, appreciation, reasoning

and categorical findings on the issues and why the findings impugned in the writ petition deserve to be upheld or reversed, while dealing with the arguments of the parties in the light of legal principles applicable to the case, it is difficult to sustain such order of the Division Bench. The only expression used by the Division Bench is "on due consideration". It is not clear as to what was that due consideration which persuaded the Division Bench to dispose of the writ petition because in the earlier paras only facts are set out. Time and again, Supreme Court has emphasized on the Courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the counsel for the parties in support of its conclusion. The Division Bench failed to keep in mind these principles while disposing of the writ petition. Such order has caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost. The case is remanded to the Division Bench of the High Court for deciding the writ petition afresh on merits in accordance with law.[Paras 14-16] [1133-F-H ; 1134-A-C]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 7240 of 2018.

From the Judgment and Order dated 01.08.2017 of the High Court of Madhya Pradesh, Bench at Indore in W. P. No. 1046 of 2017.

Dushyant Parashar, Adv. for the Appellant.

Navin Prakash, Ms. Meetu Singh, Advs. for the Respondent.

The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J. 1. Leave granted.

2. This appeal is filed against the final judgment and order dated 01.08.2017 passed by the High Court of Madhya Pradesh, Bench at Indore in Writ Petition No.1046 of 2017 whereby the Division Bench of the High Court dismissed the writ petition filed by the appellant herein and affirmed the order dated 06.09.2016 passed by the Employees Provident Fund Appellate Tribunal, New Delhi in ATA No.214(8) of 2015.

A 3. The facts of the case lie in a narrow compass and it would be clear from the facts stated hereinbelow.

4. On 19.05.2008, the appellant-Central Board of Trustees issued summons under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act") B to the respondent-M/s Indore Composite Pvt. Ltd. for non-payment of the Provident Fund contribution in the year 2005-2006 on the wages lesser than the minimum wages prescribed for the employees under the category of semi-skilled. The representative of the respondent attended the enquiry and submitted that the Department has not considered non-C working days of the employees already furnished in Form 3A for the year 2005-2006 and there are some employees under the category of unskilled whereas the Department has treated all of them as semi-skilled. The appellant, after considering the aforesaid, by order dated 15.04.2010, directed the respondent to deposit Rs.87,204/- within 15 days from the receipt of that order. It was also stated that the above order under D Section 7A is without prejudice to any action under Sections 7C, 7Q and 14B of the Act.

5. On 21.01.2015, the appellant, in exercise of the power under Section 14B of the Act, ordered the respondent to pay damages and allied dues of Rs.91,585/- for the delayed payments from 01/2007 to 02/ E 2006 to 05/2013.

6. Challenging the said order, the respondent filed an appeal being ATA No.214 (8) of 2015 before the Employees Provident Fund Appellate Tribunal, New Delhi. Vide order dated 06.09.2016, the Tribunal allowed the appeal and set aside the order dated 21.01.2015 passed by the F appellant.

7. Felt aggrieved, the appellant filed writ petition being Writ Petition No.1046 of 2017 before the High Court. The High Court, by the impugned order, dismissed the petition.

8. The appellant felt aggrieved and filed the present appeal by G way of special leave before this Court.

9. The short question, which arises for consideration in this appeal, is whether the Division Bench of the High Court was justified in dismissing the appellant's writ petition.

10. Heard learned counsel for the parties.

H

11. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to allow the appeal, set aside the impugned order and remand the case to the Division Bench of the High Court for deciding the writ petition afresh on merits in accordance with law.

12. After setting out the facts, the Division Bench proceeded to disposed of the writ petition with the following observations in its concluding paras which read as under:

> **"On due consideration of the aforesaid on the basis of the fresh documents and affidavit for taking additional documents on record, we cannot direct the establishment to pay damages for the period from March 2006-April 2010 when all these objections were not taken before the learned Tribunal.**
>
> **Considering the aforesaid, we are of the view that the order passed by the learned Tribunal is just and proper and no case for interference with the impugned order is warranted.**
>
> **The writ petition filed by the petitioner has no merit and is accordingly dismissed."**
>
> **(emphasis supplied)**

13. In our opinion, the need to remand the case to the High Court has occasioned for the reason that the Division Bench dismissed the writ petition filed by the appellant (petitioner) cursorily without dealing with any of the issues arising in the case as also the arguments urged by the parties in support of their case.

14. Indeed, in the absence of any application of judicial mind to the factual and legal controversy involved in the appeal and without there being any discussion, appreciation, reasoning and categorical findings on the issues and why the findings impugned in the writ petition deserve to be upheld or reversed, while dealing with the arguments of the parties in the light of legal principles applicable to the case, it is difficult for this Court to sustain such order of the Division Bench. The only expression used by the Division Bench in disposing of the appeal is "on due consideration". It is not clear to us as to what was that due consideration which persuaded the Division Bench to dispose of the writ petition because we find that in the earlier paras only facts are set out.

A 15. Time and again, this Court has emphasized on the Courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the learned counsel for
B the parties in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind these principles while disposing of the writ petition. Such order, in our view, has undoubtedly caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost. We can never countenance the
C manner in which such order was passed by the High Court which has compelled us to remand the matter to the High Court for deciding the writ petition afresh on merits.

16. In the light of the foregoing discussion, we allow the appeal, set aside the impugned order and remand the case to the Division Bench
D of the High Court for deciding the writ petition afresh on merits in accordance with law keeping in view our observations made supra.

17. We, however, make it clear that we have refrained from making any observation on merits of the controversy having formed an opinion to remand the case to the High Court for the reasons mentioned above.
E The High Court would, therefore, decide the writ petition, uninfluenced by any of our observations, strictly in accordance with law.

18. With the aforesaid directions, the appeal is accordingly allowed and the impugned order is set aside.

F

Divya Pandey Appeal allowed.