

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present

SMT. PRANITA MOHANTY

Presiding Officer

REFERENCE NO.CGIT-1/27 of 2012

Parties: Employers in relation to the management of

Mumbai Port Trust

And

Their workmen

Appearances:

For the first party Management : Mr.Umesh Nabar, Adv.

For the second party workmen : Mr Uday Choudhari, Adv.

State : Maharashtra

Mumbai, dated the 19th day of July, 2022

AWARD

1. The present reference has been made by the Central Government by its order dated 24.5.2012 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act 1947. The terms of reference as per the schedule to the said order are as under:

“Whether the action of management o Mumbai Port Trust, Mumbai in effecting deployment or redeployment of Dredging Crew, rendered surplus, due to discontinuation of Night Shift of Dredging Flotilla Section, in the vacancies or future vacancies in the Shipping/Marine Flotilla Section by way of issuing Notice of Change, dated 02.11.2010, is justified? To what relief the workmen concerned are entitled?”

2. As per the claim statement the Mumbai Port Trust is run by a Board of Trustees constituted under the Major Port Trust Act having over all control over the management of the Sea port of Mumbai. The work discharged by the management of Sea Port are classified into various activities and one of such activity is the dredging work of the shipping channels. For this purpose, the management employer had commissioned similar dredging crafts which is run and managed by the dredging crew. The workmen were the employees under the management for execution of the said work. Suddenly, the

management issued notice to the workmen under Section 9-A of the Industrial Dispute Act proposing a change in the service condition of the crew members and the said notice was served on 2.11.2010. As per the notice a decision to discontinue the night shift and the day shift work confined to 8 hours. There were also other clauses with regard to weekly off etc. The workmen opposed the said change in the service condition on various grounds amongst others that there is no provision for protection of post. The workmen raised their objection in due process and a dispute in this regard was raised before the Conciliation Officer. During the Conciliation proceedings certain proposals were given by the employer but the same were not accepted by the workmen. The conciliation proceedings continued for pretty long period. At last, the same failed and the appropriate government referred the matter for adjudication by this Tribunal as per the terms of reference. Thereafter, the claimants filed their claim petition praying *inter alia* that the Tribunal to pass some award holding that the action of the employer in effecting the deployment of the dredging crews member, surplus staff and to discontinue the night shift is illegal and suitable direction be given restraining the employer from deployment or re-deployment of the dredging crew and direct the employer and to fill up the promotional post available in the shipping section and grant of Interim Relief pending disposal of the dispute.

3. The management filed written statement denying the claim of the claimants. It has been stated that the dredging section was formerly a part of the Civil Engineering Department and the Seniority List of the crew were maintained separately. It is true that the dredging section has been brought under the Marine Department from August 1975 for operational control and from October 1986 for Administrative control. While denying the claim of the claimants as illegal and unfair the management has stated that the dredging craft had since become old and requires with frequent repair. The management took decision to minimize the activity. Thus, it was felt necessary to rationalize the deployment of the dredging staff, dredging department and all the legal procedures and conditions precedent to effecting the change contemplated under the Industrial disputes Act were duly followed. Hence, management has taken a stand that the claim is not maintainable and liable to be dismissed.
4. Today, when the matter came up for hearing, the learned AR for the workmen filed a written application seeking permission for withdrawal of the proceedings. Copy of the petition has been duly served on the management. In the said petition, it has been stated that 10 years have passed since the date of filing of the claim petition and the purpose as well as the cause of action has come to an end and thus workmen do not want to pursue the matter. Copy of the petition served to the learned AR. Management who also endorsed that he has no objection for withdrawal.

5. In view of the application moved today and the submission made by the AR for both the parties, the following order is passed.

ORDER

The reference be and the same is dismissed for the no claim advanced by the claimant workmen.

6. Award is accordingly passed.

PRESIDING OFFICER
CGIT-1, MUMBAI