

Dnyaneshwar Vs. The Superintendent Engineer, Public Works Division and Others

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Court : Mumbai Aurangabad

Decided On : Jul-01-2015

Judge : Ravindra V. Ghuge

Appeal No. : Writ Petition No. 11605 of 2014

Appellant : Dnyaneshwar

Respondent : The Superintendent Engineer, Public Works Division and Others

Judgement :

Oral Judgment:

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The issue raised before me is as to when would the Labour Court / Tribunal be rendered FUNCTUS OFFICIO? under the Industrial Disputes Act, 1947 and the Industrial Disputes (Bombay) Rules, 1957.
3. Though this case reveals peculiar facts, there is no dispute with regard to the facts pertaining to Ref.(IDA) No.90/1996, which are recorded as under:
 - a. The petitioner was engaged as a skilled labourer w.e.f. 01/04/1985.

- b. He was terminated on 20/09/1996 under oral orders.
- c. Kalelkar Award is applicable to the respondent establishment.
- d. An industrial dispute with regard to his termination was raised by the petitioner.
- e. Owing to the failure of the conciliation proceedings, the Deputy Commissioner, Labour, Aurangabad/Appropriate Authority, by order dated 20/09/1996 referred the dispute to the Labour Court, Solapur.
- f. The petitioner, who was second party workman, submitted his statement of claim on 26/06/1997.
- g. By an ex-parte judgment and award dated 10/08/2000, the reference was allowed with the directions that the respondent/first party management shall reinstate the petitioner on his original post with continuity of service and back wages from 15/12/1995 till the date of his reinstatement.
- h. The award dated 10/08/2000 was published on 23/11/2000.
- i. The respondent claimed to have received the copy of the award on 14/12/2000.
- j. Misc.Appl.(IDA) No.3/2001 was filed by the respondent seeking setting aside/recalling of the award on the ground that it is delivered ex-parte after more than 120 days from the date of publication of the award.
- k. On 09/08/2004, the petitioner's mother passed away.
- l. On 11/08/2004, Misc.Appl.(IDA) No.3/2001 was allowed.
- m. The petitioner filed Misc.Appl.(IDA) No.23/2006 on 28/09/2006, seeking recalling of the order dated 11/08/2004.
- n. On 25/05/2009, the Labour Court rejected the application for condonation of delay.
- o. The petitioner preferred WP No.6362/2009 which was allowed by this Court on 10/06/2010, thereby quashing the order dated 25/05/2009, refusing to condone the

delay.

p. By order dated 14/05/2012, Misc.Appl. (IDA) No.23/2006 filed by the petitioner was allowed.

q. Ref.(IDA) NO.90/1996 was renumbered as Ref.(IDA) No.22/2004 since it was transferred from Labour Court, Solapur to the Labour Court at Latur.

r. Ref.(IDA) No.22/2004 was restored on 28/04/2014 by setting aside ex-parte judgment dated 11/08/2004.

s. The petitioner filed an application Exh.U4 on 25/07/2014 contending therein that Misc.Appl.(IDA) No.3/2001, filed by the employer seeking vacating of the ex-parte award dated 10/08/2000 in Ref.(IDA) No.90/1996, was untenable in Law since the Labour Court was rendered FUNCTUS OFFICIO?.

t. By order dated 08/12/2014, impugned in this petition, application Exh.U-4 filed by the petitioner was 'FILED' in the light of the order passed by this Court dated 10/06/2010 in WP No.6362/2001.

4. The learned Advocate for the petitioner as well as the learned AGP are united in submitting that under Rule 26 r/w Rule 31A of the Industrial Disputes (Bombay) Rules, 1957 (Hereinafter referred to as the Rules) and Section 17 and 17A of the Industrial Disputes Act, 1947 (Hereinafter referred to as the Central Act), the Labour Court or the Industrial Tribunal, as the case may be, is rendered FUNCTUS OFFICIO? after 30 days from the date of the publication of the award under the Central Act and its Rules.

5. The petitioner contends that the very first Misc.Appl. (IDA) No.3/2001 filed by the employer on 19/03/2001 was after about 120 days from the date of publication of the ex-parte Award dated 10/08/2000 on 23/11/2000. The petitioner, therefore, submits that this Application No.3/2001 filed by the respondent was untenable as it was filed beyond 30 days from the date of the publication of the Award.

6. A similar argument is advanced by the learned AGP contending that the second ex-parte judgment dated 11/08/2004 was sought to be set aside by

Misc.Appl.(IDA) No.23/2006 filed by the petitioner. As the said application was also filed beyond 30 days from the date of publication of the said Award, the Labour Court had become 'FUNCTUS OFFICIO'.

7. The peculiar aspect before this Court, is therefore apparent that the first ex-parte award dated 10/08/2000 was sought to be recalled beyond 30 days by the respondent and the second ex-parte award dated 11/08/2004 was also sought to be vacated/recalled beyond 30 days by the petitioner, from the date of their publication. In the light of these facts, it is clear that the respondent as well as the petitioner have suffered ex-parte awards dated 10/08/2000 and 11/08/2004 respectively and both have sought the vacating of these two awards beyond 30 days from the date of their publication.

8. Be that as it may, the issue before me is as to when did the Labour Court become FUNCTUS OFFICIO? and therefore lost jurisdiction over Ref.(IDA) No.22/2004 (Old No.90/1996). It requires no debate that once the Labour Court became FUNCTUS OFFICIO?, all subsequent orders passed would be rendered a nullity as the Labour Court was divested of this jurisdiction.

9. Section 17 and 17A of the Industrial Disputes Act, read as under:

17. Publication of reports and awards. “

(1) Every report of a Board or Court together with any minute of dissent recorded therewith, every arbitration award and every award of a Labour Court, Tribunal or National Tribunal shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

(2) Subject to the provisions of section 17A, the award published under subsection (1) shall be final and shall not be called in question by any Court in any manner whatsoever.

17A. Commencement of the award. “

(1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that “

(a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or (b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-

section (1) or subsection (3), as the case may be.?

10. Rule 31A of the Rules reads as under:

Publication of report or award, etc. :

(1) Within thirty days of the date of receipt of the report of a Board or award of a Labour Court or Tribunal by it the State Government, -

(a) Shall, if it considers that having regard to the importance of such report or award its publication in the Official Gazette is necessary cause it to be published in the Official Gazette.

(b) if it considers that the report or award is not sufficiently important it may cause a copy thereof together with a notification under section 17 to be forwarded to the Board or a Court or Tribunal, as the case may be, for publication on the Notice Board at its office.

(2) Where the report or award is published in the Official Gazette or on notice board of the Board, Court or Tribunal, the State Government shall at the time of such publication forward a copy thereof to the parties to the dispute and where the report or award is published on notice board of the Board, Court or Tribunal, such Board, Court or Tribunal, shall inform the State Government and the parties concerned of the date of such publication on the notice board.? (Emphasis supplied).

11. It is thus clear that after the appropriate Government receives the award from the Labour Court or the Tribunal, it shall, within 30 days, publish the award in the official gazette if it considers that the Award is important thereby opting for such mode of publication. If the award is considered to be not as important, it may cause a copy thereof together with a notification u/s 17 to be forwarded to the Labour Court or Tribunal, which has delivered the Award for publication on its notice board.

12. It is apparent that there are only two modes of publication in the light of Rule 31A of the Rules. The first mode of publication is in the Official Gazette and the

second mode of publication is on the Notice Board of the Labour Court or the Tribunal, which delivers the Award.

13. The notification issued by the concerned authority under Section 17 of the Central Act does not tantamount to and cannot be construed to mean a publication of the Award. The date of the notification is not the date of publication and is insignificant since there is no third mode of publication prescribed by law or the Rules. The said notification only indicates to the Labour Court or the Tribunal, which has delivered the Award that the Award has been accepted. It is thus a request to the concerned Labour Court or Tribunal to publish the Award on its Notice Board. The date on which the concerned Court / Tribunal publishes the Award, shall be the date of publication of the Award. In the instant case, the date of publication of the ex-parte Award dated 10.8.2000 is 23.11.2000.

14. The issue as to when would the Award become enforceable, thereby, rendering the Labour Court / Tribunal FUNCTUS OFFICIO? is no longer res integra. The Honourable Supreme Court dealt with the issue of the Labour Court / Tribunal becoming FUNCTUS OFFICIO? in the case of Grindlays' Bank Vs. Central Government Industrial Tribunal and others [1981 1 LLJ 327 = AIR 1981 SC 606, which was decided on 12.12.1980. The two questions that arose for the consideration in the Civil Appeal before the Apex Court are set out in paragraph No.3 as under:

"3. Two questions arise in the appeal, namely (1) whether the Tribunal had any jurisdiction to set aside the ex parte award, particularly when it was based on evidence, and (2) whether the Tribunal became functus officio on the expiry of the 30 days from the date of publication of the ex parte award under Section 17, by reason of Sub-section (3) of Section 20 and, therefore, had no jurisdiction to set aside the award and the Central Government alone had the power under Sub-section (1) of Section 17A to set it aside."

15. The Apex Court answered the said issues by its observations in paragraph No.14, which reads as under:

"14. The contention that the **Tribunal** had become functus officio and therefore, had no jurisdiction to set aside the ex parte award and that the **Central Government** alone could set it aside, does not commend to us. Sub-section (3) of Section 20 of the Act provides that the proceedings before the **Tribunal** would be deemed to continue till the date on which the award becomes enforceable under Section 17A. Under Section 17A of the Act, an award becomes enforceable on the expiry of 30 days from the date of its publication under Section 17. The proceedings with, regard to a reference under Section 10 of the Act are, therefore, not deemed to be concluded until the expiry of 30 days from the publication of the award. Till then the **Tribunal** retains jurisdiction over the dispute referred to it for adjudication and upto that date it has the power to entertain an application in connection with such dispute. That stage is not reached till the award becomes enforceable under Section 17A. In the instant case, the **Tribunal** made the ex parte award on December 9, 1976. That award was published by the **Central Government** in the Gazette of India dated December 25, 1976. The application for setting aside the ex parte award was filed by respondent No. 3, acting on behalf of respondents Nos. 5 to 17 on January 19, 1977 i.e., before the expiry of 30 days of its publication and was, therefore, rightly entertained by the **Tribunal**. It had jurisdiction to entertain it and decide it on merits. It was, however, urged that on April 12, 1977 the date on which the impugned order was passed, the **Tribunal** had in any event become functus officio. We cannot accede to this argument. The jurisdiction of the **Tribunal** had to be seen on the date of the application made to it and not the date on which it passed the impugned order. There is no finality attached to an ex parte award because it is always subject to its being set aside on sufficient cause being shown. The **Tribunal** had the power to deal with an application properly made before it for setting aside the ex parte award and pass suitable orders.?"

16. It was, thus held by the Apex Court that once the Award was published by the Court / Tribunal, the Award would not become enforceable for a period of thirty days from the date of its publication under Section 17. After the expiry of thirty days, the Award would become enforceable thereby consequentially rendering the Court / Tribunal which delivered the award, FUNCTUS OFFICIO?. Needless to state, on the date the Award becomes enforceable, the Court / Tribunal would lose

jurisdiction over the said reference proceedings.

17. In the light of the above and since the Rules framed under the Central Act are Hand Maid? to the provisions of the Act, the effect of Sections 17 and 17A of the Central Act would render the words, within thirty days of the receipt of a copy thereof?, in Rule 26(2) insignificant for the reason that after thirty days of the publication of the Award, the Award becomes enforceable and the Court / Tribunal becomes FUNCTUS OFFICIO?.

18. By way of an illustration, if an Award dated 1st of January, 2015 is published on 1st of March, 2015, the Award would not become enforceable till 31st March, 2015. It would become enforceable on 1st April 2015 u/s 17 and the Court / Tribunal would become FUNCTUS OFFICIO?. Therefore, if the aggrieved party receives the copy of the ex parte award, say on 20th March, 2015, the thirty days for filing an application for recalling / vacating the ex parte award would be rendered untenable if filed on or after 1st April, 2015 since the Court / Tribunal would have become FUNCTUS OFFICIO? from 1st April, 2015.

19. A similar case was considered by the Apex Court, once again in the case of Sangham Tape Company Vs. Hans Raj 2004 LLR 1098 = 2004 (103) FLR 699 = (2005) 9 SCC 331. I do not wish to enlarge this judgment by reproducing the observations of the Apex Court in the Sangham Tape case (supra), since the observations are based on the ratio laid down by the Apex Court in the Grindlay's Bank case (supra).

20. This Court, in the matter of Vasant Govind Shirsekar Vs. M/s Mhatre Pen and Plastics Private Limited [2005 (3) Mah.L.J. 272], has considered a similar situation. So also the view taken by this Court in the case of M/s New India Structural and Crane Works Vs. Abdul Rashid Abdul Majid and another [1988 (1) BCR 320] was considered. In the M/s Mhatre judgment, the learned Division Bench considered the applicability of Section 5 of the Indian Limitation Act, 1963 to an application filed under Rule 26 of the Rules. It thus held that though the applicability of Section 29(2) of the Indian Limitation Act, 1963 is not excluded by the Industrial Disputes Act or by its Rules, the period of condonation of delay will have to be considered in view of the law laid down by the Supreme Court in the Grindlay's Bank's case

(supra). It was thus concluded that the Labour Court / Tribunal would become FUNCTUS OFFICIO? and would be bereft of jurisdiction to entertain an application for condonation of delay and for setting aside an ex parte award after expiry of thirty days from the date of publication of the Award.

21. It would be apposite to reproduce paragraph Nos. 4, 4A, 5, 6 and 7 of the M/s Mhatre Pen's case (supra) as under:

"4. In considering this submission, it would be necessary to consider the provisions of Section 17 under which every award of the Labour Court or Tribunal is required to be published within a period of 30 days of the date of its receipt by the Appropriate Government. Section 17A provides that the award shall become enforceable on the expiry of 30 days from the date of its publication under Section 17. These provisions were interpreted by a bench of two learned judges of the Supreme Court in *Grindlays Bank Limited v. Central Government Industrial Tribunal and Ors.* MANU/SC/0308/1980 : (1981) ILLJ 327 SC In *Grindlays Bank* the Tribunal had passed an ex-parte award on December 9, 1976. The award had been published on December 25, 1976. An application for setting aside the ex parte award was moved on January 19, 1977 and the Tribunal allowed that application and aside the award. The Supreme Court held that the application for setting aside the ex parte award was filed before the expiry of 30 days of its publication and could have been entertained by the Tribunal.

The Court held as follows:

"The contention that the Tribunal had become functus officio and, therefore, had no jurisdiction to set aside the award and that the Central Government alone could set it aside, does not commend to us. Sub-section (3) of S. 20 of the Act provides that the proceedings before the Tribunal would be deemed to continue till the date on which the award becomes enforceable under S. 17A. Under S. 17A of the Act, an award becomes enforceable on the expiry of 30 days from the date of its publication under S. 17. The proceedings with regard to a reference under S. 10 of the Act are, therefore, not deemed to be concluded until the expiry of 30 days from the publication of the award. Till then the Tribunal retains jurisdiction over the dispute referred to it for adjudication and up to that date it has the power to

entertain an application in connection with such dispute. That stage is not reached till the award becomes enforceable under S. 17A. In the instant case, the Tribunal made the ex parte award on December 9, 1976. That award was published by the Central Government in the Gazette of India dated December 25, 1976. The application for setting aside the ex parte award was filed by respondent No.3, acting on behalf of respondents Nos.5 to 17 on January 19, 1977, i.e. before the expiry of 30 days of its publication and was, therefore, rightly entertained by the Tribunal."

4A. This judgment came up for consideration in a recent judgment of a Bench of two learned judges of the Supreme Court *Sangham Tape Company v. Hans Raj*. In this case an ex parte award was passed by the Labour Court on February 5, 1996. An application for setting aside the award was moved after the expiry of a period of one month of the publication of the award. The Labour Court set aside the ex-parte award. In a writ petition filed by the workmen, the High Court had set aside the order of the Labour Court.

The Supreme Court held thus while adverting to the decision in *Grindlays Bank*:

"The said decision is, therefore, an authority for the proposition that while an Industrial Court will have jurisdiction to set aside an ex parte award but having regard to the provision contained in Section 17A of the Act, an application therefore must be filed before the expiry of 30 days from the publication thereof. Till then Tribunal retains jurisdiction over the dispute referred to it for adjudication and only upto that date, it has the power to entertain an application in connection with such dispute."

5. The Supreme Court then held that in view of the decision in *Grindlays Bank*, such jurisdiction may be exercised by the Labour Court within a limited time frame, within a period of 30 days from the date of the publication of the award. Once the award becomes enforceable under Section 17A, the Labour Court or the Tribunal, as the case may be, does not retain any jurisdiction in relation to setting aside the award passed by it. The Supreme Court held that 'upon the expiry of 30 days from the date of publication of the award in the gazette the award having become enforceable, the Labour Court would become *functus officio*. The judgment of the

High Court was, therefore, confirmed.

6. In the present case it is thus abundantly clear that upon the publication of the award on March 6, 1997 the award become enforceable on April 6, 1997. On that date the Tribunal became functus officio. The application to set aside the award was filed on July 16, 1998 on which date the Tribunal had no jurisdiction to entertain the application. The proceedings before the Tribunal were, therefore, without jurisdiction and both the order condoning the delay and the order setting aside the ex parte award would have to be quashed and set aside.

7. Counsel appearing on behalf of the respondent relied on a judgment of a Division Bench of this Court in the case of *New India Structural and Crane Works v. Abdul Rashid Abdul Majid and Anr.* 1988 (1) Bom CR 320. The question which fell for consideration before the Division Bench was, whether the provisions of Section 5 of the Limitation Act, 1963 regarding extension of the prescribed period on a sufficient cause being shown would apply to the making of an application under Rule 26(2) of the Industrial Disputes (Bombay) Rules, 1957. The Bombay Rules provide in Rule 26(1) that if a party to a proceeding before the Labour Court or Tribunal fails to attend without sufficient cause being shown, the Court or Tribunal, as the case may, may proceed ex-parte. Under Sub Rule 2 of Rule 26 where an award, order or decision is made ex-parte under sub-rule (1), the aggrieved party, may, within thirty days of the receipt of a copy thereof, make an application for setting aside such award, order or decision. If the Court or Tribunal is satisfied, that there was sufficient cause for non-appearance of the aggrieved party, it may set aside the award, order or decision. Vaze J, speaking for the Division Bench held that the provisions of Section 5 of the Limitation Act, 1963 would apply to an application to be filed under Rule 26 since there was nothing in the Industrial Disputes Act, 1947 to exclude the provisions of Section 5 of the Limitation Act. The Court held that the Industrial Disputes Act, 1947 would constitute a special law within the meaning of Section 29(2) of the Limitation of Act, 1963 and there is nothing in the former act to exclude the provisions of the latter. Rule 26 of the Industrial Disputes (Bombay) Rules, 1957 provides a period of 30 days for setting aside the ex-parte award. The judgment of the Division Bench holds that Rule 26 would not exclude the application of Section 5 of the

Limitation Act, 1963. The power to condone delay however, must be regarded in view of the law laid down by the Supreme Court as being subject to the existence of jurisdiction in the Labour Court to entertain the application. So long as the Labour Court retains jurisdiction to entertain an application for setting aside an ex-parte award, the question as to whether sufficient cause is made out is a matter which the Labour Court can consider on the facts of each case. Upon the expiry of a period of 30 days from the date of the publication of the award, the award becomes enforceable under Section 17A of the Industrial Disputes Act, 1947. The Supreme Court has held that when the award becomes enforceable, the Labour Court becomes functus officio upon which it is bereft of the jurisdiction to entertain an application for setting aside the ex-parte award. Consequently no question of sufficient cause being shown would arise once the jurisdiction of the Court comes to an end. In the present case the Labour Court had no jurisdiction to entertain the applications for condonation and for setting aside the ex-parte award on the date on which they were presented.?

22. This Court has, once again, taken a similar view in the case of Kiran Machine Tools Vs. D.D.Hinge and another [2006 (1) Mh.L.J. 286]. This Court considered the Scheme of the Reference proceedings under the Industrial Disputes Act and by relying upon the judgment of the Apex Court in the Grindlay's case (supra), has concluded that the application for condonation of delay in filing an application for setting aside the ex parte award was untenable since the Labour Court had become FUNCTUS OFFICIO? after expiry of thirty days from the date of publication of the Award.

23. In the light of the crystallized position of law as above, when it comes to the harmonious interpretation of Rule 26 of the Rules visavis Section 17 and 17A of the Industrial Disputes Act, the provisions of the Act have to prevail. In the Radhakrishna Mani and Chhabda Petrol Pump judgments (supra), Rule 26 as has been interpreted to mean that the 30 days shall have to be computed from the date of receipt of the copy of the award. However, it is trite law that an award becomes enforceable on expiry of 30 days from the date of its publication. Rule 31A only provides for the 2 modes of publication.

24. As has been held by the Apex Court in the Grindlay™s case (supra) and Sangham Tape Company (supra), the Labour Court / Tribunal would become FUNCTUS OFFICIO? the moment the award becomes enforceable on the expiry of 30 days from the date of its publication u/s 17. As such, Rule 26 will have to be interpreted to mean that the 30 days are required to be computed from the date of publication of the award for the simple reason that the Labour Court / Tribunal, which has become FUNCTUS OFFICIO? after 30 days of the publication of the award, cannot be invested with jurisdiction by Rule 26.

25. The Rules which are hand-maid to justice, cannot create jurisdiction in a Court or Tribunal, which has become FUNCTUS OFFICIO?. In these circumstances, I am of the view that Rule 26(2) is inconsistent with Sec.17 and 17A of the Industrial Disputes Act. I am, therefore, unable to follow the ratio laid down by the learned Single Judge in Radhakrishna Mani Tripathi Vs. L.H.Patel 2006(3) BCR 227 and Chhabda Petrol Pump Vs.Shaikh Hasan 2007(6) BCR 624.

26. In the light of the above, I am of the view that the Law as laid down by the Apex Court in the Grindlay?s case (supra) and Sangham Tape Company needs to be followed. This Court in the case of Vasant Govind Shirsekar (supra), New India Structural (supra) and Kiran Machine Tools (supra) has also followed the view taken by the Apex Court in the said judgments. I, therefore, conclude that the 30 days period is to be computed from the date of publication of the Award either in the official gazette or the date on which the Labour Court / Industrial Tribunal publishes the Award on its notice board. Computation of 30 days is, therefore, not from the date of receipt of the copy of the award, so published.

27. In the light of the above, I am required to revert back to the date of publication of the ex-parte judgment and award dated 10/08/2000. The said award was published by the Labour Court on its notice board on 23/11/2000. The period of 30 days during which the award is not enforceable is to be calculated w.e.f. 23/11/2000. The said award, therefore, became enforceable on 23/12/2000 thereby rendering the Labour Court FUNCTUS OFFICIO?.

28. It, therefore, means that the Labour Court lost jurisdiction in Ref.(IDA) No.90/1996 w.e.f. 23/12/2000. Hence it could not have entertained the

Misc.Appl.(IDA) No.3/2001 filed before it by the respondents herein. Naturally all proceedings before and orders passed by the Labour Court on or after 23/12/2000 in the said reference case are rendered a nullity since the Labour Court had no jurisdiction to entertain the said proceedings, being FUNCTUS OFFICIO?.

29. As such, the order dated 11/08/2004 in Misc.Appl.(IDA) No.03/2001, order dated 14/05/2012 passed in Misc. Appl.(IDA) No.23/2006 and order dated 08/12/2014 below Exh.U4 in Misc.Appl.(IDA) No.3/2001 are quashed and set aside. Consequentially, Misc.Appl.(IDA) No.3/2001 and Misc.Appl.(IDA) No. 23/2006 are rendered untenable and hence stand rejected.

30. However, in the above backdrop, the respondents cannot be rendered remediless since they are aggrieved by the impugned judgment and award dated 10/08/2000. As its Misc.Appl.(IDA) No.3/2001 is held to be untenable, the respondents are granted liberty to prefer a writ petition for challenging the ex-parte judgment and award dated 10/08/2000, if it so desires, within a period of 8 (eight) weeks from today. In the event, such a petition is filed, the days consumed on account of approaching the Labour Court by Misc.Appl.(IDA) No.3/2001 till the passing of this order, shall be considered as a good ground for condonation of delay.

31. This petition is hence partly allowed and Rule is made partly absolute in the above terms.

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