

CASE NO.:
Appeal (civil) 1585-1587 of 2008

PETITIONER:
Workmen Employed Under IT Shramik Sena

RESPONDENT:
M/s Raptakos Brett and Co. Ltd

DATE OF JUDGMENT: 25/02/2008

BENCH:
TARUN CHATTERJEE & HARJIT SINGH BEDI

JUDGMENT:
JUDGMENT

O R D E R
CIVIL APPEAL NOS 1585-1587 OF 2008
[Arising out of SLP [C] Nos.1072-1074 of 2008]

1. Leave granted.
2. These appeals are directed against an interim order passed by a Division Bench of the High Court of Judicature at Bombay in Letters Patent Appeal No.177 of 2007 with Civil Application No.303 of 2007 in Civil Application Nos.1916 and 1554 of 2007 in Writ Petition No.3079 of 2006. By the impugned order, the Division Bench of the High Court had modified an interim order passed by a learned single Judge, which was as follows: -
"[i] As the Company has decided to reinstate the workmen instead of paying dues u/s 17B of the Industrial Disputes Act, the workmen shall be paid wages at par with unskilled permanent workmen or the statutory minimum wages whichever is higher, from the date of this order.
[ii] If no work is provided to the workmen by the employer, they shall be paid wages @ Rs.2,500/- per month.
[iii] These wages shall be paid by the employer and accepted by the workmen without prejudice to their rights and contentions in the petition.
[iv] The arrears payable to the workmen on account of non-payment of wages @ Rs.2500/- per month, when work was not provided to them, after the order of this Court dated 29.8.2006, shall be paid within a period of four weeks from today."
3. This interim order of the learned single Judge was taken in appeal by the Management before the High Court of Judicature at Bombay. The Division Bench disposed of that appeal by keeping the interim direction Nos. 2 to 4 intact but so far as the interim direction No. 1 was concerned, it was moulded as follows: -

"As the Company has decided to reinstate the workmen instead of paying dues u/s 17B of the Industrial Disputes Act, the workmen shall be paid last drawn wages or the statutory minimum wages whichever is higher, from the date of this order."

As noted herein earlier, these special leave petitions have been filed against the aforesaid modified interim order of the High Court of Judicature at Bombay.

4. We have heard the learned counsel appearing for the parties and examined the two interim orders passed by the learned single judge and the Division Bench. Mr. R.F. Nariman, the learned senior

counsel appearing for the respondent submitted on instruction that the management had never agreed to reinstate the workmen and therefore, the question of calling the workmen to work in the company during the pendency of the writ petition shall not arise at all. The learned senior counsel for the appellant, however, submitted that since the management is not willing to reinstate the workmen, they should be paid in compliance with the interim direction No.4 made by the learned single judge, which has been affirmed by the Division Bench of the High Court, that is to say, when no work was provided to the workmen, the workmen shall be paid wages @ Rs. 2500/- per month till the disposal of the writ petition. Such being the stand taken by the parties before us, we dispose of these appeals with the following directions: -

i) The management shall not call the workmen/appellant for work in the company and therefore, the workmen/appellant shall have no obligation to join the company for work but, during the pendency of the writ petition, the management shall go on paying wages @ Rs. 2500/- per month.

ii) The High Court is requested to dispose of the pending writ petition at an early date preferably within 4 months from the date of supply of a copy of this order.

5. These appeals are thus disposed of with no order as to costs.