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UNION OF INDIA AND ANR.

v.

M/S JAGJIT INDUSTRIES AND ANR.

MAY 6, 1999

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[V.N. KHARE AND U.C. BANERJEE, JJ.]

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Telegraph Act, 1885—Section 7-B—Reference of disputes to arbitration—Non-speaking award—Validity of—Such non-speaking awards valid only if it has attained finality prior to M.L. Jaggi's case—Injunction against reopening of such award not applicable to a case where the award is given under Section 7-B was challenged on account of absence of reasons in the award prior to M.L. Jaggi's case—On facts, the present award challenged before the High Court and set aside on 20.3.1993 had not attained finality and thus could not be treated as a valid award—Constitution of India, Article 226.*

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The disputes regarding bills raised by the appellant to the telephone connection installed at the premises of respondent was referred to the arbitration under Section 7-B of the Telegraph Act, 1885. The arbitrator entered into the reference and gave a non-speaking award. The award was thus challenged before the High Court in a writ petition and the same was set aside on 20-3-1993 (prior to the decision in *M.L. Jaggi's** case) on the ground that the award did not contain any reason. Hence this appeal.

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It was contended by the appellant that non-speaking award given prior to decision in *M.L. Jaggi's case** has to upheld.

Dismissing the appeal, this Court

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HELD : A combined reading of paragraphs 8 and 9 of *M.L. Jaggi** show that what has been prohibited by this decision is only regarding reopening of the awards which have already attained finality. The injunction contained in paragraph 9 of the decision is not applicable to cases where decisions given under Section 7-B of the Indian Telegraph Act were challenged on account of absence of reason in the award prior to the said decision. In the case in hand, the award was challenged before the High Court and the same was set aside. Therefore, what has been observed in paragraph 9 is not

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applicable to the present case. [1110-E-G]

M.L. Jaggi v. Mahanagar Telephones Nigam Ltd., [1996] 3 SCC 119, A
relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 362 of
1994.

From the Judgment and Order dated 20.5.93 of the Punjab & Haryana
High Court in C.W.P. No. 1020 of 1993. B

Rajiv Nanda and Mrs. Anil Katiyar for the Appellants.

P.N. Puri for the Respondents.

The Judgment of the Court was delivered by C

V. N. KHARE, J. Respondent herein has a telephone connection. It
appears that certain dispute arose in respect of the bills submitted by the
appellants towards telephone charges. Consequently, the matter was referred
to an arbitrator under Section 7-B of the Indian Telegraph Act, 1885 (hereinafter
referred to as 'the Act'). On 20.8.1992, the arbitrator entered into the reference
and on 18th December, 1992, he gave a non-speaking award. This award was D
challenged by the respondents by means of a writ petition under Article 226
of the Constitution before the Punjab & Haryana High Court. A Division
Bench of the High Court having found that the award does not contain any
reason, set aside the award and remitted the matter back to the arbitrator for
giving a speaking award. It is against this judgment, the Union of India is in E
appeal. Learned counsel appearing for the appellants urged that in view of
the decision in the case of *M.L. Jaggi v. Mahanagar Telephones Nigam Ltd.
& Ors*, [1996] 3 SCC 119, the requirement of giving reasons in the award by
the arbitrator has to be applied prospectively and for that reason judgment
under appeal deserves to be set aside. In brief, the argument is that a non- F
speaking award given prior to decision in *M.L. Jaggi's* case (supra) has to be
upheld.

After having gone through the judgment, we find that the argument of
the learned counsel is not based on the correct interpretation of paragraphs
8 and 9 of the said decision. Paragraphs 8 and 9 are reproduced below :

"8. It is thus, settled law that reasons are required to be recorded
when it affects the public interest. It is seen that under Section 7-B,
the award is conclusive when the citizen complains that he was not
correctly put to bill for the calls he had made and disputed the
demand for payment. The statutory remedy open to him is one provided
under Section 7-B of the Act. By necessary implication, when the H

A arbitrator decides the dispute under Section 7-B, he is enjoined to give reasons in support of his decision since it is final and cannot be questioned in a court of law. The only obvious remedy available to the aggrieved person against the award is judicial review under Article 226 of the Constitution. If the reasons are not given, it would be difficult for the High Court to adjudge as to under what circumstances the arbitrator came to his conclusion that the amount demanded by the Department is correct or the amount disputed by the citizen is unjustified. The reasons would indicate as to how the mind of the arbitrator was applied to the dispute and how he arrived at the decision.

B The High Court, though does not act in exercising judicial review as a court of appeal but within narrow limits of judicial review it would consider the correctness and legality of the award. No doubt, as rightly pointed out by Mr. V.R. Reddy, Additional Solicitor General, the questions are technical matters. But nonetheless, the reasons in support of his conclusion should be given. In this case, arbitrator has not given reasons. The award of the arbitrator is set aside and the matter is remitted to the arbitrator to make an award and give reasons in support thereof.

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9. Since we have decided this question for the first time, it must be treated that any decision made prior to this day by any arbitrator under Section 7-B of the Act is not liable to be reopened. In other words, the order is prospective in its operation.'

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A combined reading of paragraphs 8 and 9 shows that what has been prohibited by the aforesaid decision is only regarding reopening of the awards which have already attained finality. The injunction contained in paragraph 9 of the decision is not applicable to cases where decisions given under Section 7-B of the act were challenged on account of absence of reason in the award prior to the said decision. This view of our finds support from the fact that this Court in *M.L. Jaggi's* case (supra) has set aside the decision of the arbitrator which was found lacking in reasons. So far as the present case is concerned, the award was challenged before the High Court and the same was set aside on 20.3.93. Therefore, what has been observed in paragraph 9 is not applicable to the present case. We, therefore, do not find any merit in this appeal and the same is accordingly dismissed. There shall be no order as to costs.

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Appeal dismissed.