ANZ GRINDLAYS BANK LTD. (NOW KNOWN AS STANDARD CHARTERED GRINDLAYS BANK LTD.) A

v.

UNION OF INDIA AND ORS.

NOVEMBER 8, 2005 B

[H.K. SEMA AND G.P. MATHUR, JJ.]

Industrial Disputes Act 1947

Section 18(1)—Persons bound by the Settlement—Settlement by agreement between the Appellant Bank and its employees association representing majority workmen of the Bank—Whether binding on employees Federation representing minority workmen which was not a party to the agreement—Held, no—Settlement otherwise than in the course of conciliation proceeding is binding only upon the parties thereto. C D

Sections 2(k), 10(1) and 18(1)—Industrial Dispute, Reference to Tribunal—Settlement between Appellant Bank and its employees association—Settlement provide for giving benefits to workmen who are members of Association—Other workmen not entitled to benefits until the individual gives acceptance of the settlement in the given format—Employees Federation filing application for reference of industrial dispute to the Tribunal—Central Government making reference under section 10(1)—Appellant Bank filing writ petition for quashing the reference—High Court dismissing the petition—Allowing the appeal, held, the Federation not being the party to settlement was not affected in anyway and can have no grievance against the said settlement—There being no industrial dispute and the reference being wholly futile is uncalled for and therefore quashed. E F

Section 10(1)—Constitution of India 1950—Article 226—Industrial Dispute, Reference—Writ against—Maintainability of writ petition against order making reference for adjudication by the Industrial Tribunal—Held, where the futility of the reference is apparent in the terms of reference itself writ petition under Article 226 can be entertained. G

The appellant Bank and its employees Association, representing majority of its Award Staff, arrived at settlement by agreement. Settlement provide for giving certain benefits to the employees. It is binding on members H

A of the Association. Benefit can be extended to other employees who give acceptance to the settlement in the given format. Employees Federation, representing minority employees, applied for reference of dispute. Central Government made a reference under section 10(1) for adjudication by the Industrial Tribunal. Aggrieved thereby Bank filed a writ petition for quashing
B the reference. The High Court dismissed the petition. Hence this appeal.

Allowing the Appeal with cost, the Court

HELD : 1. A plain reading of the provisions of Section 18 of the industrial Disputes Act would show that where a settlement is arrived at by agreement
C between the employer and the workmen otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement in view of the clear language used in sub-section (1) thereof. Sub-sections (2) and (3) of Section 18 contemplate different situations where an arbitration award has been given or a settlement has been arrived at in the course of conciliation proceedings. The Federation (second respondent) not being party
D to the settlement, it is obvious that the same is not binding upon it in view of sub-section (1) of Section 18 of the Act. Thus the settlement dated 18.8.1996 did not affect the rights of the Federation in any manner whatsoever and it can possibly have no grievance against the said settlement.

[70-H; 71-A-B; 71-D]

E *M/s. Tata Chemicals Ltd.* v. *The Workmen,* AIR (1978) SC 828, relied on.

2. Section 2(k) of the I.D. Act defines "industrial dispute" and it means any dispute or difference between employers and employers, or between
F employers and workmen, between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. The definition uses the word "dispute". The dictionary meaning of the word "dispute" is: to contend any argument; argue for or against something asserted or maintained. There is no industrial dispute in existence nor there is any apprehended dispute between the
G appellant-Bank and the Federation and as such there is absolutely no occasion for making any reference for adjudication by the Industrial Tribunal. The reference being wholly futile, the same deserves to be quashed.

[72-B-C; 74-C]

H *Black's Law Dictionary; Advance Law Lexicon by P.Ramanatha Iyer; Gujarat State Co-operative Land Development Bank Ltd.* v. *P.R.Mankad,* [1979] 3 SCC 123, referred to.

3. Normally a writ petition under Article 226 of the Constitution should not be entertained against an order of the appropriate Government making a reference under Section 10 of the Act, as the parties would get opportunity to lead evidence before the Labour Court or Industrial Tribunal and to show that the claim made is either unfounded or there was no occasion for making a reference. However, this is not a case where the infirmity in the reference can be shown only after evidence has been adduced. In the present case the futility of the reference made by the Central Government can be demonstrated from a bare reading of the terms of the reference and the admitted facts. In such circumstances, the validity of the reference made by the Central Government can be examined in proceedings under Article 226 of the Constitution as no evidence is required to be considered for examining the issue raised. [73-E, F, G]

National Engineering Industries Ltd. **v.** *State of Rajasthan and Ors.*, **[2000] 1 SCC 371, referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7170 of 2000.

From the Judgment and Order dated 19.6.2000 of the Bombay High Court in A. No. 319/2000 in W.P. No. 175 of 2000.

Mukul Rohatgi and Gaurab K. Banerji, Joydeep Mazumdar, Sourav Agarwal, Ms. Ruby Singh Ahuja, T.M. Singh, Ms. Pragya Singh Baghel and Mrs. Manik Karanjawala for the Appellant.

S.N. Bhat for the Respondent No. 2.

B.K. Pal and P.N. Jha for the Respondent No. 3.

The Judgment of the Court was delivered by

G.P. MATHUR, J. This appeal, by special leave, has been preferred against the judgment and order dated 19.6.2000 of the Bombay High Court by which the Letters Patent Appeal filed by ANZ Grindlays Bank Limited (hereinafter referred to as the 'Bank') was dismissed and the order dated 29.2.2000, passed by the learned single Judge dismissing the writ petition filed by the Bank, was affirmed. The present appeal has been filed by ANZ Grindlays Bank Limited and the respondents arrayed in the appeal are (1) Union of India, (2) All India Grindlays Bank Employees Federation, and (3) All India Grindlays Bank Employees Association. During the pendency of the

A appeal in this Court the entire share capital of ANZ Grindlays Bank Limited has been acquired by Standard Chartered Bank Limited and consequently an application (I.A. No. 3 of 2000) has been moved to change the name of the appellant from ANZ Grindlays Bank Limited to Standard Chartered Grindlays Bank Limited, which has been allowed.

B 2. The Bank has branches all over the country and employs approximately 1666 personnel commonly known as Award Staff in its branches/offices in India. The All India Grindlays Bank Employees Association (third respondent) is recognized by the Bank and it represents majority workmen of the Bank all over the country. The All India Grindlays Bank Employees Federation (second C respondent) represents the minority workmen of the Bank. The terms and conditions of the employment of the workmen of the appellant Bank, popularly known as Award Staff, are governed by Shastri Award as modified by Desai Award and the bipartite settlements entered into between the Indian Banks Association and the Unions and Federations representing the workmen in the banking industry. Apart from these industry wise bipartite settlements, the D appellant-Bank also entered into in-house bilateral settlement with second and third respondents and these settlements are usually signed after every three years in respect of certain allowances and benefits and other terms and conditions of employment. The third respondent the All India Grindlays Bank Employees Association (for short the 'Association') represents over 66% of E the workmen of the appellant-Bank. The Grindlays Bank Employees Union, Calcutta, an affiliate of the second respondent All India Grindlays Bank Employees Federation (for short the 'Federation') represents nearly 13% of the workmen of the Bank and the balance, who are not members of either of these unions are represented by the second respondent the All India Grindlays Bank Employees Federation.

F 3. The case of the appellant is that the Federation (second respondent) is in the habit of backing out from signing the settlement at the last minute after having agreed to the terms thereof. Since 1993 several settlements were entered into between the Bank, the Association (third respondent) and also Grindlays Bank Employees Union, Calcutta. However, on account of the G recalcitrant attitude of the Federation (second respondent), in the settlement entered into under Section 18(1) of the Industrial Disputes Act, 1947 (for short the 'Act') a clause had to be incorporated for voluntary acceptance of the terms and conditions of such settlements by non-members of the Association (third respondent) with a view to extend the benefit of such settlements to H such of the non-members of the Association, who are willing to accept the

settlement.

4. A strike notice dated 14.3.1996 was issued to the management of the Bank by the Federation (second respondent). Discussions were held with all the parties and finally a settlement was arrived at between the appellant-Bank and the Association (third respondent), which was signed on 18.8.1996. The Federation (second respondent), however, backed out and refused to sign the settlement. The Federation then informed the Conciliation Officer (Central) on 19.8.1996 that it had not signed the settlement and that the signing of the settlement by the Bank with the Association (third respondent) amounted to unfair labour practice. On 6.12.1997 Grindlays Bank Employees Union, Calcutta, a constituent of the Federation (second respondent) representing 13% of the workmen of the Bank accepted the terms of the settlement dated 18.8.1996 by signing a separate settlement dated 6.12.1997. The settlement dated 18.8.1996 contained the following clause: -

"DURATION

This settlement will come into force with effect from August 18, 1996 and on various dates as specified under different items contained in the settlement. The same shall be binding on the parties until December 31, 1998. After December 31, 1998 and except in the case of ex-gratia system/payments all other terms and conditions thereof shall continue to be binding on the parties until the settlement is terminated by either party giving to the other statutory notice as prescribed in law for the time being in force.

It is agreed that since the settlement shall be binding between the parties to this settlement under Section 18(1) of the Industrial Disputes Act, 1947, it will also be binding on the affiliated units of All India Grindlays Bank Employees' Association and hence on their members and thus the members shall automatically be entitled to the benefits of this settlement and subject to the obligations under this settlement. However, any other workmen who is not a member of any Union affiliated to All India Grindlays Bank Employees' Association shall also be bound by the terms and conditions of this settlement and consequently entitled to the benefits flowing out of this settlement if he/she accepts this settlement by signing a receipt and the format of the settlement enclosed with this settlement, which will be made available to such employees.

A The benefits arising out of this settlement will be given effect to by September 10, 1996."

The settlement itself contained a format in which the receipt had to be given and the same is as under: -

B "To

The Manager
ANZ Grindlays Bank Limited.

Sir,

C The terms and conditions of the settlement dated August 18, 1996 between the Management of ANZ Grindlays Bank and their workmen represented by All India Grindlays Bank Employees' Association in respect of the various demands have been perused by me. I accept the settlement and the same will be binding on me. I undertake to receive the benefits in terms of the conditions set out in the settlement.
D I, therefore, request you to release the benefits accruing to me under the same.

This may be construed as my receipt towards payment/receipt of grant under the subject settlement.

E Sd/-

SIGNATURE"

As a result of signing of the settlement by the Association (third respondent) and the Calcutta Union, almost 99% of the Award Staff signed the settlement
F and only 29 persons remained, who did not sign the settlement and were objecting to the same. However, according to the Federation (second respondent) 60 persons have not signed the settlement and are objecting to the same. Nearly three years thereafter the Association (third respondent) submitted a fresh charter of demands and after holding discussions and negotiations a fresh settlement was signed on 10.3.1999 by the Association
G and Calcutta Unit of Grindlays Bank Employees Union.

5. At the instance of All India Grindlays Bank Employees Federation (second respondent) the Central Government, by order dated 29.12.1997, made a reference under Section 10(1) of the Act for adjudication by the Industrial
H Tribunal. After issuance of a corrigendum on 17.12.1998, the reference reads

as under: -

> "Whether the terms of bipartite settlement dated 18.8.1996, between the management of ANZ Grindlays Bank Limited, and All Indian Grindlays Bank Employees Association which bound withholding of benefits of settlement to workmen who are not members of All India Grindlays Bank Employees Association until the individual gives acceptance of the settlement in the given format is legal and justified? If not, to what relief are the workmen entitled to?"

Feeling aggrieved by the aforesaid reference made by the Central Government the ANZ Grindlays Bank filed a writ petition under Article 226 of the Constitution before the Bombay High Court for quashing and setting aside the same. The writ petition was dismissed by a learned single Judge and the appeal preferred against the said decision before the Division Bench also failed. The present appeal has been filed by the Bank challenging the aforesaid orders.

6. Mr. Gaurab Banerji, learned senior counsel for the appellant-Bank, has submitted that the reference made by the Central Government is wholly redundant and it does not show what is the precise demand of the Federation (second respondent) and how the decision of the reference by the Industrial Tribunal if answered in favour of the second respondent, would give any benefit to the said respondent. The language in which the reference has been couched clearly shows that the Federation (second respondent) merely wants a declaratory relief which by itself would be wholly ineffective and will give no benefit to the Federation. The settlement arrived at between the Bank and the Association (third respondent) was under Section 18(1) of the Act and consequently it did not bind those who are not parties to the settlement like the Federation (second respondent) and thus the rights, if any, of the Federation were not affected in any manner by the settlement. Learned counsel has also submitted that the Central Government had on two previous occasions refused to make a reference and there being no change in circumstance there was no occasion for reviewing the decision taken earlier and in making the reference on 29.12.1997. It has been further contended by Mr. Banerji that the settlement made on 18.8.1996 had already worked itself out and benefits had been given to the employees in terms thereof. The said settlement had been superseded by another settlement on 10.3.1999. If the settlement arrived at on 18.8.1996 is held to be illegal or unjustified, it will result in causing serious injury to the appellant Bank as it will be impossible to recover back the benefits which had already been given to the employees in terms of the

A settlement.

7. It may be mentioned at the very outset that the appellant-Bank had entered into the settlement dated 18.8.1996 with the Association (third respondent) and members of the Grindlays Bank Employees Union, Calcutta, after holding discussions and negotiations. The settlement had not been B entered into either before a conciliation officer or labour court or industrial tribunal. In view of Section 18(1) of the Act the settlement was binding only upon the parties thereto. Section 18 of the Act reads as under: -

> "18. *Persons on whom settlements and awards are binding.*— (1) A C settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.
>
> (2) Subject to the provisions of sub-section (3), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration. D
>
> (3) A settlement arrived at in the course of conciliation proceedings under this Act or an arbitration award in a case where a notification has been issued under sub-section (3-A) of Section 10-A or an award of a Labour Court, Tribunal or National Tribunal which has become enforceable shall be binding on— E
>
> (a) all parties to the industrial dispute;
>
> (b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, records the F opinion that they were so summoned without proper cause;
>
> (c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;
>
> (d) where a party referred to in clause (a) or clause (b) is composed G of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part."

H A plain reading of the provisions of Section 18 would show that where a

settlement is arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement in view of the clear language used in sub-section (1) thereof. Sub-sections (2) and (3) of Section 18 contemplate different situations where an arbitration award has been given or a settlement has been arrived at in the course of conciliation proceedings. In *M/s. Tata Chemicals Ltd.* v. *The Workmen employed under M/s. Tata Chemicals Ltd.*, AIR (1978) SC 828, it was held as under: -

> "Whereas a settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding is binding only on the parties to the agreement, a settlement arrived at in the course of conciliation proceeding under the Act is binding not only on the parties to the industrial dispute but also on other persons specified in Cls. (b), (c) and (d) of sub-sec. (3) of S. 18 of the Act."

8. The Federation (second respondent) not being party to the settlement, it is obvious that the same is not binding upon it in view of sub-section (1) of Section 18 of the Act. Thus the settlement dated 18.8.1996 did not affect the rights of the Federation (second respondent) in any manner whatsoever and it can possibly have no grievance against the said settlement.

9. Mr. S.N. Bhat, learned counsel for the Federation (second respondent), has submitted that under the settlement such employees of the bank, who were not members of the Association (third respondent), were required to give a receipt in writing in order to avail of the benefits of the settlement and this was clearly illegal. We are unable to accept the submission made. As already stated, the settlement was arrived at between the Bank and the Association (third respondent) and by virtue of sub-section (1) of Section 18 of the Act it bound only the members of the Association (third respondent). However, the Bank also extended the benefit of settlement to such other employees, who were not members of the Association. In order to avail of the benefit they had to give a receipt that they were accepting the settlement and the same shall be binding upon them and the format of the receipt, which has been reproduced earlier, does not contain any such term, which may be of detriment to them. To protect its interest the Bank was perfectly justified in asking for a receipt from those employees, who were not members of the Association (third respondent), but wanted to avail of the benefit of the

A settlement. Therefore, we do not find anything wrong in the Bank asking for a receipt from the aforesaid category of employees.

10. The principal issue, which requires consideration, is whether the Central Government was justified in making a reference to the Industrial Tribunal in terms set out earlier. Section 2(k) of the Act defines "industrial B dispute" and it means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. The definition uses the word "dispute". The dictionary meaning of the word C "dispute" is: to contend any argument; argue for or against something asserted or maintained. In *Black's Law Dictionary* the meaning of the word "dispute" is: a conflict or controversy, specially one that has given rise to a particular law suit. In Advance Law Lexicon by P. Ramanatha Iyer the meaning given is: claim asserted by one party and denied by the other, be the claim false or D true; the term dispute in its wider sense may mean the ranglings or quarrels between the parties, one party asserting and the other denying the liability. In *Gujarat State Cooperative Land Development Bank Ltd.* v. *P.R. Mankad and Ors.*, [1979] 3 SCC 123, it was held that the term dispute means a controversy having both positive and negative aspects. It postulates the assertion of a claim by one party and its denial by the other.

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11. A plain reading of the reference made by the Central Government would show that it does not refer to any dispute or apprehended dispute between the Bank and the Federation (second respondent). It does not refer to any demand or claim made by the Federation or alleged refusal thereof by F the Bank. In such circumstances, it is not possible to hold that on account of the settlement dated 18.8.1996 arrived at between the Bank and the Association (third respondent), any dispute or apprehended dispute has come into existence between the Bank and the Federation (second respondent). The action of the Bank in asking for a receipt from those employees, who are not members of the Association (third respondent) but wanted to avail of the G benefit of the settlement, again does not give rise to any kind of dispute between the Bank and the Federation (second respondent). Thus, the reference made by the Central Government by the order dated 29.12.1997 for adjudication by the Industrial Tribunal is wholly redundant and uncalled for.

H 12. There is another aspect of the matter, which deserves consideration.

The settlement dated 18.8.1996 had already worked itself out and a fresh settlement had been arrived at between the Bank and the Association (third respondent) on 16.11.1999. The members of the Association (third respondent) and other employees, who availed of the benefit of the settlement, have received payments in terms thereof. Some of the employees have already retired from service. Even if the settlement is set aside the Federation (second respondent) would not gain in any manner as no enforceable award can be given in its favour, which may be capable of execution. On the contrary the appellant-Bank would be a big loser as it will not only be very difficult but almost impossible for the Bank to recover the monetary benefits already paid to its employees under the settlement. We are, therefore, of the opinion that the reference made by the Central Government is wholly uncalled for and deserves to be set aside.

13. Mr. Bhat, learned counsel for the second respondent, has submitted that this Court should not interfere with the order of the Central Government making a reference under Section 10 of the Act, as the appellant can ventilate its grievances before the Industrial Tribunal itself and if the decision of the tribunal goes against the appellant, the same may be challenged in accordance with law. According to learned counsel the writ petition is pre-mature as the appellant has got a remedy before the Tribunal to show that the reference is either bad in law or is uncalled for. We are unable to accept the submission made. It is true that normally a writ petition under Article 226 of the Constitution should not be entertained against an order of the appropriate Government making a reference under Section 10 of the Act, as the parties would get opportunity to lead evidence before the Labour Court or Industrial Tribunal and to show that the claim made is either unfounded or there was no occasion for making a reference. However, this is not a case where the infirmity in the reference can be shown only after evidence has been adduced. In the present case the futility of the reference made by the Central Government can be demonstrated from a bare reading of the terms of the reference and the admitted facts. In such circumstances, the validity of the reference made by the Central Government can be examined in proceedings under Article 226 of the Constitution as no evidence is required to be considered for examining the issue raised.

14. In *National Engineering Industries Ltd.* v. *State of Rajasthan and Ors.*, [2000] 1 SCC 371, this Court held as under in para 24 of the report:

A "It will be thus seen that High Court has jurisdiction to entertain a writ petition when there is allegation that there is no industrial dispute and none apprehended which could be subject matter of reference for adjudication to the Industrial Tribunal under Section 10 of the Act. Here it is a question of jurisdiction of the Industrial Tribunal, which could be examined by the High Court in its writ jurisdiction. It is the existence of the industrial dispute which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it."

15. In view of the discussions made above it is manifestly clear that there is no industrial dispute in existence nor there is any apprehended dispute between the appellant-Bank and the Federation (second respondent) and as such there is absolutely no occasion for making any reference for adjudication by the Industrial Tribunal. The reference being wholly futile, the same deserves to be quashed.

16. The appeal is accordingly allowed with costs. The judgments and orders of the learned single Judge dated 29.2.2000 and that of the Division Bench of the High Court dated 19.6.2000 are set aside and the reference made by the Central Government to the Industrial Tribunal on 29.12.1997 is quashed.

K.G. Appeal allowed.