

Dhanbad Colliery Karamchari Sangh

Vs

Union of India and Others

Civil Appeal No. (sic) of 1991

(K. N. Singh, P. B. Sawant JJ)

20.02.1991

ORDER

1. Leave granted.

2. The appellant Union raised a dispute that the workmen employed in the mines run and maintained by M/s. Bharat Coking Coal Ltd., Lodhna Area, Dhanbad were engaged by a contractor without obtaining a licence and in fact the workmen were under the direct employment of the management of M/s. Bharat Coking Coal Ltd. They claimed relief for a declaration to that effect. The workmen approached the Central Government for referring the dispute to Industrial Court under Section 10 of the Industrial Disputes Act, 1947. The Central Government by its order dated May 5, 1989 refused to refer the dispute on the ground that Union had failed to establish that the disputed workmen were engaged in prohibited categories of work under the Contract Labour (Regulation and Abolition) Act, 1970 and further that they were engaged by contractor and not by the management of the respondent Company. The government further held that there appeared to be no employer-employee relationship between the management of the respondent-company and the workmen involved in the dispute. The appellant challenged the government's order before the High Court by means of writ petition but the same was dismissed in limine. Hence this appeal.

3. After hearing learned counsel for the parties and having regard to the facts and circumstances of the case, we are of the opinion that this appeal must succeed. The Central Government instead of referring the dispute for adjudication to the appropriate Industrial Court under Section 10 of the Industrial Disputes Act, 1947, it itself decided the dispute which is not permissible under the law. We, accordingly, allow the appeal, set aside the order of the High Court and of Central Government and direct the Central Government to refer the dispute for adjudication to the appropriate Industrial Court under Section 10 of the Industrial Disputes Act, 1947. We further direct the Central Government to make the reference within three months.

4. There will be no order as to costs.

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