

SUPREME COURT OF INDIA

Employers of Bharat Coking Coal Ltd.

Vs.

Presiding Officer

(S. R. Babu and Y.K. Sabharwal JJ.)

12.09.2000

ORDER

S. RAJENDRA BABU, J.

1. A reference was made to the Central Government Industrial Tribunal to adjudicate upon the following dispute:

Whether the demand of a union for reinstatement of 39 workmen (as per list enclosed) with full back wages by the Management of Bharat Coking Coal Ltd., Koyla Nagar, Dhanbad, is justified ? If so, to what relief the workmen are entitled and from what date ?

2. The Tribunal on consideration of the pleadings raised before it and the evidence led held that the concerned workmen were appointed by the DIG of CISF who is also Chief Security Officer of BCCL-appellant and that the workmen were paid the wages from the coffers of the appellant and, therefore, granted relief to the 39 workmen with full back wages. A writ petition was preferred against the said award which was dismissed and hence this appeal.

3. Learned Additional Solicitor General appearing for the appellant contended that indeed 39 workmen in question were never appointed by the appellant but on the other hand by the DIG of CISF to whom certain consolidated payment had been made towards certain expenses out of which wages appear to have been paid to the 39 workmen. If that is so, the learned Additional Solicitor General submitted that the employment of the 39 workmen is through a contractor and they cannot be fastened on to the appellant. The High Court, however, did not agree with this contention, and relying upon the conclusions reached by the Tribunal, on facts, declined to interfere under Article 226 of the Constitution.

4. We have gone through the award made by the Tribunal. The Tribunal has held, on examination of the material before it, that though appointment orders, as such, had not been issued by the appellant, it is clear from the material on record that the DIG of CISF had taken the services of the 39 workmen in the interest of the appellant and it is also noticed that the evidence clearly indicated that the concerned workmen were paid wages from the coffers of the appellant and that was based upon the material placed before the Tribunal in the shape, correspondence between the Conciliation Officer and the DIG of CISF. In the circumstances we think that the view taken by the Tribunal and as affirmed by the High Court is unexceptionable. We, therefore, decline to interfere with that part of the award made by the Tribunal. The dispute between the concerned workmen of the employer

and the appellant has been going on for considerable time. Neither of them were certain as to the outcome of the position. In the circumstances, we think it would not be proper to grant full back wages and we reduce the same to 50% with this modification, the award made by the Tribunal is affirmed. The appeal is dismissed accordingly subject to the modification as to back wages.