

SUPREME COURT OF INDIA

ONGC Purbanchal Employees Association

Vs.

Union of India

C.A.No.3511/2018

(Kurian Joseph,J., Mohan M.Shantanagoudar and Navin Sinha,JJ.,)

03.04.2018

JUDGMENT

Kurian Joseph,J.,

SLP(C)No.23494/2012

1. Leave granted.

2. The appellants are before this Court, aggrieved by the judgment of the Division Bench of the High Court remitting an industrial dispute to the Industrial Tribunal. There are two set of references before the Industrial Tribunal. In Civil Appeal No @ SLP(c) No.23494/2012, the reference is as follows:-

"1. Whether the 22 contract labour as per Annexure 'A' are performing permanent and perennial nature of job in the establishment of ONGC Ltd. Sibsagar and are entitled for regular employment in ONGC if so, to what relief they are entitled?"

2. Whether the contract labour as per Annexure 'B' are performing same or similar nature of work as being performed by any of the regular employee of ONGC Ltd. Sibsagar and are entitled for wages and the benefits as is admissible to other contract labour under Rule 25(2)(v)(a) of the C.L. (RIA) cum Central Rules, 1971? If so, to what relief they are entitled?"

3. In Civil Appeal No @ SLP(c) No.23495/2012, the reference reads as follows:-

"Whether the claim of ONGC Contractual Mazdoor Sangha Lakwa regarding regularization of services of their members (who are working as contractual workers) in ONGC Ltd. at Lakwa is justified? If so, to what relief, the workmen are entitled?"

4. The Industrial Tribunal passed an award directing regularization of the workers. The same was upheld by the learned Single Judge.

5. However, the Division Bench took the view that the matter needs a fresh look by the Industrial Tribunal in the light of the decision in *Steel Authority of India Ltd. & Ors. v. National Union Waterfront Workers & Ors.*, reported in¹. The Bench took the view that the Industrial Tribunal needs to decide as to whether there was a genuine contract.

6. Aggrieved, the workmen represented by their Associations are before this Court.

7. We have heard Mr. Pravir Choudhury, learned counsel appearing for the appellant, Mr. J.P. Cama, learned senior counsel appearing for the ONGC and Ms. Kiran Suri, learned senior counsel appearing for the Union of India, assisted by other counsel.

8. On going through the award passed by the Industrial Tribunal and detailed analysis made by the learned Single Judge, we find that there is hardly any scope for the Industrial Tribunal to adjudicate on any further aspect. All relevant aspects have been considered meticulously by the learned Single Judge. Being a writ proceedings, the Division Bench was called upon, in the intra court appeal, primarily and mostly to consider the correctness or otherwise of the view taken by the learned Single Judge. Hence, in our view, the Division Bench needs to consider the appeal(s) on merits by deciding on the correctness of the judgment of the learned Single Judge, instead of remitting the matter to the Tribunal.

9. In that view of the matter, we set aside the impugned judgments of the Division Bench and remit the matters to the High Court. We request the Division Bench to dispose of the writ appeals on merits expeditiously, preferably within six months from today.

10. The appeals are, accordingly, disposed of.

11. Pending applications, if any, shall stand disposed of.

12. There shall be no orders as to costs.

Judgment Referred.

¹(2001) 7 SCC 0001