

(1997) 03 AHC CK 0161
In the Allahabad High Court
Case No : Special Appeal No. 9 of 1995

Canteen Karmchari Sangharsh Samiti	APPELLANT
Vs	
National Thermal Power Corporation Ltd. and Others	RESPONDENT

Date of Decision : 12-03-1997

Acts Referred:

Citation : (1999) 3 LLJ 1181

Hon'ble Judges : R.A. Sharma, J;D.K. Seth, J

Bench : Division Bench

Advocate : B.N. Singh and K.T. Tripathi, for the Appellant; V.P. Agrawal and Piyush Bhargava, for the Respondent

Final Decision : Dismissed

Judgement

R.A. Sharma and D.K. Seth, JJ.—The appellant claiming to be a Trade Union of employees working in National Thermal Power Corporation Limited, Shakti Nagar, Sonbhadra, filed writ petition before this Court for the following reliefs:--

"(i) To issue suitable writ, direction or order commanding the Respondents 1 and 2 to treat the employees of the Canteen in their project at Singrauli as their own employees entitled to the same wages/benefits and facilities as are being given to their own employees,

(ii) to issue a suitable writ, direction or order commanding the Respondents 1 and 2 to pay to the canteen employees atleast that much of wages which it pays to its sweepers and attendants and to give them overtime allowance, dearness allowance, paid holiday, weekly offs. etc. as per the provisions contained in various Labour Laws,

(iii) to issue a writ in the nature of mandamus or any other writ/direction or order commanding the respondent No.3 to get the canteen employees treated as the employees of the respondents 1 and 2,

(iv) to issue a writ in the nature of mandamus or any other writ, direction or

order commanding the respondent No.4 to prosecute the respondents No. 1, 2 and 3 for committing breach of various Labour Laws more particularly for taking work for more than prescribed hours, for non-payment of overtime work, for not giving paid weekly offs and holidays, for not giving privilege, casual and earned leaves etc."

(v) to issue any other writ, direction or order or grant such other and further reliefs as may be deemed fit and proper in the circumstances of the case, and

(vi) to order for costs."

2. The writ petition having been dismissed by the learned single Judge the appellant has filed this appeal.

3. The grievance raised by the learned counsel for the appellant is that the employees who are working in the Canteen run by a Co-operative Society respondent no. 3 of the National Thermal Power Corporation at Singrauli and they should be paid the same wages and be given the same benefits and facilities as are being given to the employees of the said Corporation, other incidental and consequential reliefs have also been claimed.

4. The dispute raised by the appellant in the instant case is of the nature which can be resolved by the Labour Court/Industrial Tribunal on the basis of the evidence which may be produced by the parties. The writ jurisdiction is not a proper forum for deciding such a dispute. We are conscious of the fact that the writ petition was filed in 1987 which was dismissed by the learned single Judge on December 19, 1994 against which the present appeal has been filed. Normally in a case where the writ petition has remained pending for considerable long time it is not dismissed by this Court on the ground of alternative remedy but in the present case, the controversy involved is of the nature which can only be decided on the basis of the evidences, oral and documentary, which may be produced by the parties. Under the circumstances, the writ petition and the special appeal have to be dismissed on the ground of alternative remedy.

5. The learned counsel for the appellant wanted to address the Court on the merit of the controversy and also wanted to cite certain cases in support thereof, but we have declined to hear him on merit as we are dismissing the writ petition and this appeal on the ground of alternative remedy before the Labour Court/Industrial Tribunal.

6. This appeal and the writ petition filed by the appellant are dismissed on the ground of alternative remedy under the Industrial Disputes Act. To cut out delay, we direct that in case the appellant approaches the appropriate authority for reference of dispute to the Labour Court/Industrial Tribunal the said authority shall pass appropriate order regarding making of reference to the Labour Court/Industrial Tribunal, as the case may be within a period of 6 weeks from the date of production of certified copy of this order before it. We further direct that the Labour Court shall decide the dispute in accordance with law after giving

opportunity of being heard to both the parties as far as possible within a period of 6 months of the receipt of the order of reference.