

(2000) 09 SC CK 0118
In the Supreme Court Of India
Case No : Civil Appeal No: 5757 of 1999

Executive Engineer, FHD

APPELLANT

Vs

GS, Neendakara Port and Fishing Harbour and Others

RESPONDENT

Date of Decision : 21-09-2000

Acts Referred:

Citation : (2000) 7 SCALE 684 : (2000) 6 SCALE 574 : (2001) 9 SCC 762

Hon'ble Judges : S. Rajendra Babu, J;D. P. Mohapatra, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

S. Rajendra Babu and; D.P. Mohapatra, JJ.-A reference was made to the Tribunal on 18-10-1988 by the Government to adjudicate upon several questions including:

1. Confirmation of workers.
2. Revision of wage rates.
3. National and festival holidays.
4. Supply of uniforms.
5. Issuance of identity cards.
6. Overtime wages for extra work.
7. Annual bonus for 1985-86.
8. Filling up of existing vacancies.

2. The case put forth by the workmen is that they were engaged in Neendakara Fishing Harbour Project since the stage of investigation and were doing the work as Driver, Watchman, Seaman, Electrician and Sweeper. The Fishing Harbour was commissioned on 28-3-1987. Then the workmen concerned raised a dispute that they have become permanent employees of the Project and they are entitled to

not only confirmation in the service but also other benefits. The Tribunal on consideration of the matter made an award stating that the workmen concerned are entitled to get confirmation in various categories and the reliefs thereby. On a writ petition being filed challenging the award the learned Single Judge of the High Court did not interfere with the award and dismissed the same. Thereafter a writ appeal was filed against but that order too was unsuccessful, except to make certain observations that the award would be applicable only to 35 workers who continued even after the award and they will be entitled to the benefits as declared under the award from the date of the award.

3. We have gone through the award, order made by the learned Single Judge in the writ petition and the order of the Division Bench in the writ appeal. The question posed before us is that the workmen in question have been engaged only for the purpose of construction of the Harbour and they were not engaged in any further employment and they were to continue only till commissioning of the Harbour and not thereafter and disputes having arisen between the parties the same were referred to the Tribunal in the year 1988 which is quite proximate to the date of commissioning of the Harbour. In the circumstances, this aspect assumes great significance but does not seem to have been considered by the Tribunal or the High Court. The nature of the relationship between the workmen in question and the appellant needs to be decided before other questions as referred to the Tribunal are taken up for consideration. In this view of the matter we set aside the award and the orders made by the High Court and remit the matter to the Tribunal for fresh consideration in accordance with law after giving appropriate opportunity to both the parties to adduce such other evidence as may be permissible.

4. Considering the fact that the High Court has confined its order only to 35 persons referred to therein, there shall be an order of status quo in relation to them till disposal of the industrial dispute by the Tribunal which shall not act as equity in their favour at the time of final disposal. The appeal is allowed accordingly.