

(1999) 08 SC CK 0036

In the Supreme Court Of India

Case No : Civil Appeals Nos. 5798-99 Of 1998 With Slps (C) Nos. 12657-58 Of 1998, 16122-31 Of 1998

F.C.I., Bombay and Others

APPELLANT

Vs

Transport and Dock Workers Union and Others

RESPONDENT

Date of Decision : 03-08-1999

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 — Section 10(1), 2(1)
Industrial Disputes Act, 1947 — Section 2(a)

Citation : (1999) 2 LLJ 1389 : (1999) 7 SCC 59 : (1999) SCC(L&S) 1220

Hon'ble Judges : S. Saghir Ahmad, J; S. Rajendra Babu, J

Bench : Division Bench

Judgement

1. In this bunch of petitions one of the questions argued before us by the learned Counsel for the parties relates to the definition of "appropriate Government" set out in Section 2(1)(a) of the Contract Labour (Regulation and Abolition) Act, 1970. While it is maintained by the petitioners that the appropriate Government would be the Central Government, the respondents contend that the State Government and not the Central Government would be the appropriate Government. Reference is also made to the definition of "appropriate Government" set out in Section 2(a) of the Industrial Disputes Act, 1947.

2. This question has been considered by this Court in a number of decisions. While considering the provisions of the Industrial Disputes Act, a three-Judge Bench in Hindustan Aeronautics Ltd. Vs. The Workmen and Others, held that the appropriate Government would be the State Government even though the Company was wholly owned and controlled by the Central Government. A two-Judge Bench in Heavy Engg. Maz 1969 II LLJ-548 (SC) door Union v. State of Bihar also took the same view which was followed in Hindustan Aeronautics Ltd. (supra) and Rashtriya Mill Mazdoor Sangh, Nagpur Vs. Model Mills, Nagpur and Another, as also in Food Corporation of India Workers' Union Vs. Food Corporation of India and Others, .

3. The question was again considered by a three-Judge Bench of this Court in *Air India Statutory Corporation v. United Labour Union* 1997 1 LLJ 1113. In para 28 of the decision it is stated as under:

28. From this perspective and on deeper consideration, we are of the considered view that the two-Judge Bench in *Heavy Engg. case* narrowly interpreted the words 'appropriate Government' on the common law principles which no longer bear any relevance when it is tested on the anvil of Article 14. It is true that in *Hindustan Aeronautics Ltd. (supra)*, *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, cases the ratio of *Heavy Engg. case* formed the foundation. In *Hindustan Aeronautics Ltd. (supra)* there was no independent consideration except repetition and approval of the ratio in *Heavy Engg. case (supra)*. It is to reiterate that *Heavy Engineering case* is based on concession. In *R. D. Shetty case (supra)* the need to dwell in depth into this aspect did not arise but reference was made to the premise of private law interpretation which was relegated to and had given place to constitutional perspectives of Article 14 which is consistent with the view we have stated above. In *Food Corporation of India case (supra)* the Bench proceeded primarily on the premise that warehouses of the Corporation are situated within the jurisdiction of different State Governments which led it to conclude that the appropriate Government would be the State Government.

4. On a perusal of the above para it would be clear that although the cases, namely, *Hindustan Aeronautics Ltd. (supra)*, *R.D. Shetty (supra)* and *Food Corporation of India (supra)* mentioned above were decided by a three-Judge Bench, the Hon'ble Judges who constituted the three-Judge Bench in *Air India Statutory Corporation case (supra)* did not agree with the view already expressed earlier that the appropriate Government would be the State Government and thus there is an obvious conflict of opinion on this question which needs to be resolved.

5. The other question canvassed before us, namely, the question of automatic absorption of contract labour as a consequence of a notification issued u/s 10 of the Act is also an important question.

6. Having regard to the conflict of opinion as also the importance of the question raised before us, we direct that this case shall be laid before a larger Bench for hearing. Let the papers be laid before Hon'ble the Chief Justice for appropriate orders.