
(1999) 12 OHC CK 0030
In the Orissa High Court
Case No : O.J.C. No. 13340 of 1999

Guruprasad Rout and Others

APPELLANT

Vs

Orissa Power Generation Corporation Ltd. and Others

RESPONDENT

Date of Decision : 07-12-1999

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 — Section 10

Citation : (2000) 1 LLJ 1321 : (2000) 1 OLR 158

Hon'ble Judges : P.K. Patra, J; P.K. Mohanty, J

Bench : Division Bench

Judgement

1. Heard learned Counsel for the parties.

The grievance of the writ petitioners is that even though they have been working against permanent and sanctioned posts in the Corporation, they are not being extended the benefits available to the regular employees performing similar and equal type of work. It is the contention of the learned Counsel for the petitioners that, the Corporation has introduced the system of contract labour and managing the work with the man-power like the petitioners engaged and supplied by the contractor solely with the intention of avoiding legitimate claim and the statutory dues payable to the workers. The work performed by the petitioners being perennial in nature and the petitioners having continuously worked with the Corporation for considerably long years, the State Government ought to have abolished the system of contract labour in the opposite parties' organisation. It is contended that the petitioners have approached the State Government on several occasions in their representations but the Government is apathetic to their grievances and their representations have remained unattended. The learned counsel for opp. parties 4 and 5, however, refutes the claim of the petitioners and challenges the maintainability of the present writ petition. It is his contention that petitioners having admittedly been engaged by the contractor, a licensee under the Contract Labour (Regulation and Abolition) Act, 1970, cannot claim regularisation under the Corporation, since there is no relationship of

master and servant between the petitioners and the Corporation in any manner. The learned counsel submits that the Thermal Power Employees' Association, a registered trade union representing workmen, had filed a writ petition bearing OJC No. 2697 of 1999 claiming similar relief, has already been disposed of by order dated June 24, 1999 of this Court with a direction to the State Government to consider the representation of the Association for abolition of contract labour system. Yet in another writ petition bearing OJC No. 13184 of 1999 filed by some other workmen under the contract labour, with more or less similar relief claimed, they have been permitted to withdraw the writ petition to approach the Industrial Forum by order dated November 26, 1999 of this Court.

2. Having heard the learned counsel for the parties in extenso, it appears that the main grievance of the petitioners centres round the question of abolition of contract labour system adopted by the opposite parties, the work rendered according to the petitioners being of a perennial nature and the consequential service benefits. The Contract Labour (Regulation and Abolition) Act, 1970 regulates the contract labour in certain establishments and provides for its abolition in certain circumstances. u/s 10 of the Act, the appropriate Government after consultation with the Board may prohibit by notification employment of contract labour in any establishment after following the procedure laid down therein. In the present case, the State Government being the appropriate Government as contemplated under the Act and the petitioners having approached the State Government by their representations, copies whereof are Annexure-2 series to this writ petition, we deem it appropriate to direct it to consider the representation in its proper perspective and take a decision in the matter at an early date.

3. In the view of the matter, we dispose of the writ petition with the direction to the State Government (opp. party No. 5) to consider the representation of the petitioners in accordance with the provisions of (The) Contract Labour (Regulation and Abolition) Act, 1970, after giving the concerned parties an opportunity of hearing in the matter. While considering the matter, the State Government should keep in mind, the principles decided by the Supreme Court in its decisions, in particular the decisions in *Air India Statutory Corporation, etc. Vs. United Labour Union and others* [overruled], and in *Secretary, H.S.E.B Vs. Suresh and Others etc. etc.*, and take a decision expeditiously. It may be observed that in case of displacement of any petitioner, he is free to move the appropriate forum as is available under law.

This order be communicated along with a copy of the writ petition promptly to opp. parties 4,5 and 6. Requisites along with required number of copies of writ petition for communication of the order be filed by the petitioners within three days.