
(2016) 04 CAL CK 0082
In the Calcutta High Court
Case No : W.P.S.T. No. 633 of 2010

Lakshman Chandra Das and Ors.

APPELLANT

Vs

State of West Bengal and Ors.

RESPONDENT

Date of Decision : 29-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 CLR 191 : (2016) 150 FLR 369

Hon'ble Judges : Nishita Mhatre and Rakesh Tiwari, JJ.

Bench : Division Bench

Advocate : Mr. R.N. Bag and Mr. Niladri Mondal, Advocates, for the Appellant;
Mr. Tapan Kumar Mukherjee and Mr. Somnath Naskar, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

Nishita Mhatre and Rakesh Tiwari, JJ.—The Petitioners have approached this Court contending that the order of the Tribunal dated 22nd February, 2010 in O.A. No. 7465 of 1999 and 2nd September, 2010 in R.A. No. 4 of 2010 are erroneous and illegal and, therefore, require to be set aside.

2. The Petitioners were all engaged through contractors/labour suppliers. They sought regularisation in service. As that demand was not granted, they filed O.A. No. 7465 of 1999. The Administrative Tribunal, by its order dated 22nd February, 2010, has held that in view of the judgment in the Secretary, State of Karnataka and Ors. v. Uma Devi and Ors, reported in (2006) 4 SCC 1, the Petitioners were not entitled to any relief.

3. Being aggrieved by that order, the Petitioners approached the Tribunal again by way of the review application. The Tribunal has dismissed that application on the ground that the Administrative Tribunal was not competent to decide a dispute under the Contract Labour (Regulation & Abolition) Act, 1970.

4. Mr. Bag, the learned Counsel appearing on behalf of the Petitioners, submits

that the Tribunal could not have at one moment decided that it had the jurisdiction to entertain the Original Application filed by the Petitioners for regularisation and in the review petition decide that it was only the Industrial Tribunal, which would have jurisdiction to decide a dispute under the Contract Labour (Regulation & Abolition) Act, 1970.

5. This submission of Mr. Bag is right. When the Petitioners were admittedly employed through a contractor/labour supplier, they ought not to have approached the Administrative Tribunal for relief. Their remedy lay in approaching the Industrial Adjudicator under the Contract Labour (Regulation & Abolition) Act, 1970.

6. Accordingly, the impugned orders are set aside. The Petitioners may approach the appropriate forum under the Contract Labour (Regulation & Abolition) Act, 1970 for relief. Any observations made by the Tribunal in its order dated 22nd February, 2010 will not bind the Industrial Adjudicator.

7. The writ petition is disposed of with no order as to costs. Photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties upon compliance of all necessary formalities.