
(2003) 09 AHC CK 0140
In the Allahabad High Court
Case No : C.M.W.P. No. 39164 of 1999

Mazdoor Sangh, B.P.C.L.

APPELLANT

Vs

Industrial Tribunal-I and Another

RESPONDENT

Date of Decision : 26-09-2003

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 — Section 10(1)
Uttar Pradesh Industrial Disputes Act, 1947 — Section 4K, 6(4)

Citation : (2004) 1 AWC 169 : (2003) 3 UPLBEC 2812

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : K.P. Agarwal and Anuradha Sundaram, for the Appellant; P.K. Mukherjee, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard counsel for the parties and perused the records.

2. By means of the present writ petition, the petitioner has challenged the validity and correctness of an order dated 5.6.1999, Annexure-1 to the writ petition, by which the Industrial Tribunal had advised the workmen to raise an industrial dispute by initiating the conciliation proceedings u/s 10(1) of Industrial Disputes Act for the Contract Labour (Abolition and Regulation) Act as well as the order dated 29.7.1999, Annexure-7 to the writ petition, by which the Tribunal held that the reference is not maintainable, as the Industrial Tribunal-I is a Government of India undertaking and the State Government is not competent to refer the dispute u/s 4K of the U.P. Industrial Disputes Act, 1947.

3. The brief facts of the case are that the State Government on being satisfied that an Industrial dispute exists, referred a dispute for adjudication to the Industrial Tribunal at Allahabad for regularization of the employees of B.P.C.L. The matter was registered as Adjudication Case No. 51 of 1986. This case remained pending before the Industrial Tribunal at Allahabad for about 13 years and ultimately the Tribunal gave its award on 19.1.1998 and submitted to the

State Government for publication. Thereafter, by an order dated 30.1.1999, the State Government in exercise of its power u/s 6 (3) of the U.P. Industrial Disputes Act remitted the award to the Tribunal for its publication. The Tribunal by its impugned order dated 5.6.1999, informed the parties that the reference by the State Government was incompetent as the B.P.C.L. was a Government of India undertaking, hence the State Government was not appropriate Government for reference.

4. The Tribunal by its order dated 19.1.1998, had allowed the preliminary objection of the employers and also held that the reference order u/s 4K of the U.P. Industrial Disputes Act, 1947, made by the State Government is not competent, as the employer company is owned by the Government of India and as such, the appropriate Government was the Central Government and not the State Government. It has further been held that Industrial Tribunal cannot exercise power u/s 10(1) of the Contract Labour (Abolition and Regulation) Act, which vests in appropriate Government, relying upon the decision of the Hon'ble Supreme Court in *Air India Statutory Corporation, etc. Vs. United Labour Union and others* [overruled],

5. An application was moved by the representative of the workers union praying that the Tribunal may rehear the case and submit a fresh award under Sub-section (4) of Section 6 of the U.P. Industrial Disputes Act, 1947, which is as under :

"(4) The State Government may before publication of an award of a labour court or Tribunal under Sub-section (3) remit the award for reconsideration of the adjudication authority, and that authority shall, after reconsideration submits its award to the State Government and the State Government shall publish the award in the manner provided in Sub-section (3)."

6. The representative of workers" union contended that the award was not published and the Tribunal was fully competent to hear the reference on merits, but petitioner could not show any apparent error or Illegality in the order dated 19.1.1998 passed by the Tribunal. From the perusal of the order dated 19.1.1998, it is clear that the workman had not approached the appropriate Government for a fresh reference, but he moved an application before the Tribunal, which was rejected as misconceived.

7. The ratio laid down by the Apex Court in *Air India Statutory Corporation (supra)* has been overruled in the case of *Steel Authority of India Ltd. and Others etc. etc. Vs. National Union Water Front Workers and Others etc. etc.*, but reference for abolition of contract labour is not competent. Even according to tests laid down in the case of *Steel Authority of India Ltd.*, the Central Government is the appropriate Government for B.P.C.L. There is no illegality in the orders dated 19.1.1998, 5.6.1999 and 29.7.1999.

8. For the reasons stated above, the writ petition is dismissed. No order as to costs.