

(2002) 06 JH CK 0055
In the Jharkhand High Court
Case No : CWJC No. 3096 of 1999

Murli Gope and Others

APPELLANT

Vs

Damodar Valley Corporation and Others

RESPONDENT

Date of Decision : 15-06-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Contract Labour (Regulation and Abolition) Act, 1970 — Section 10

Citation : (2002) 06 JH CK 0055

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : V.P. Singh, Sat Prakash and Shalini Jha, for the Appellant; P.K. Bhowmik, Md. Hatim and K.K. Mishra, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This application was preferred by 25 (twenty five) petitioners for direction on the respondents to provide the petitioners same facility as given to the Canteen Employees of Dur-gapur Thermal Power Station (D.T.P.S.) with additional prayer to abolish the system of "Contract Labour" in the Canteen at Chandrapura Thermal Power Station (C.T.P.S.).

2. The brief facts of the case show that both the aforesaid Thermal Power Stations, namely, D.T.P.S. and C.T.P.S. are being managed and run by the respondent-Damodar Valley Corporation (D.V.C.).

3. The petitioners are workmen of contractors running the Canteen within the premises of C.T.P.S., Chandrapura.

4. It appears that tripartite agreement reached between the Canteen workmen on the one hand and the Assistant Commissioner, Labour, Dhanbad on the other, on 18th August, 1980 to provide certain benefits to the contractors' workmen working in the Canteen. It was agreed upon to provide same benefits to the contractors' workmen as being given to the workmen working in the Canteen in D.T.P.S., Durgapur. Subsequently, the Contractors' workmen, who were working

in the Canteen situated within D.T.P.S., Durgapur were provided regular appointment in 1997, vide Annexure 3 series, but no such benefit having provided to the petitioners, the Contractors' workmen working in the Canteen situated within C.T.P.S., Chandrapura, the present writ petition was preferred.

5. The respondents have appeared and filed counter affidavit. Mr. Bhowmik, counsel for the D.V.C. submitted that on abolition of contract under Contract Labour (Regulation & Abolition) Act, 1970 (for short the "Act"), the Contractors' workmen working in the Canteen at D.T.P.S., Durgapur were given regular appointment. In absence of any notification u/s 10 of the Act, such benefit of regular appointment cannot be given to the Contractors' workmen working in the Canteen at C.T.P.S., Chandrapura.

6. In view of stand taken on behalf of the respondent D.V.C., the counsel for the petitioners pressed the prayer made at paragraph I(b) to the writ petition, i.e. for direction on the respondents to abolish the system of "Contract Labour" and to regularise the services of the Canteen workmen.

7. Reliance was placed on a Division Bench decision of Calcutta High Court, passed in FAT No. 556 of 1997, enclosed as Annexure R/1 to the counter affidavit filed by the respondents. Prayer was made to direct the respondents, i.e. the Central Government to abolish the contract by issuance of notification u/s 10 of the Act and for regularisation of services of Canteen workmen under the D.V.C.

8. From the judgment of Calcutta High Court passed in FAT No. 556 of 1997, it appears that the appeal was preferred against the judgment of learned single Judge, as was passed under Article 226 of the Constitution of India.

In the said case, similar plea was taken by the D.V.C. The Calcutta High Court taking into consideration the submission while held that the appeal succeeds technically and the directions/observations of the learned single Judge given to the State Government to decide the question of abolition of "Contract Labour" was reversed, the Central Government being the competent authority, the workmen were allowed to transmit all the materials/records which were forwarded to the State Government for its onward transmission to the competent authority, i.e. the Central Government for determination of such dispute. Certain interim relief was also granted by directing the respondents to maintain status quo with regard to the workmen till final decision, as may be taken by the competent authority.

9. The learned counsel for the D.V.C. submitted that the D.V.C. has no objection if the competent authority, namely, the Central Government issues any notification u/s 10 of the Act, if the matter is referred to them.

10. Having regard to the facts and circumstances, the petitioners are given liberty to approach the competent authority, i.e. the Central Government with direction to the Central Government to decide the dispute on receipt of such application(s) and verification of all relevant materials.

11. The competent authority, i.e. the Central Government shall proceed strictly in accordance with law and make endeavour to finalise the matter, as quickly as possible, preferably within a period of six months.

12. If any such application is preferred by the petitioners along with copy of this judgment within three weeks, the authorities will maintain status quo so far as continuance of employment in the Canteen concerned, till final decision is taken in one or other way by the competent authority. However, such maintenance of status quo with regard to continuance of employment will be subject to any penal action, as may be required to be taken against one or other workman.

13. The writ petition stands disposed of with the aforesaid observations/directions. There shall be, however, no order as to costs.