

(2002) 08 JH CK 0019

In the Jharkhand High Court

Case No : C.W.J.C. No's. 1909 of 1995 and 1708 of 1996

Sri Sanjay Kumar Singh and Others and Sri Rabindra Kumar
Singh and Others

APPELLANT

Vs

Steel Authority of India and Others

RESPONDENT

Date of Decision : 22-08-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 1 JCR 359

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : A.K. Sahani, for the Appellant; Rai Shivaji Nath and Benani Verma,
for the Respondent

Judgement

M.Y. Eqbal, J.—In these two writ applications the petitioners seek appropriate, direction for regularisation of their services on the ground, inter alia, that they have been working in the Bokaro Steel Plant for the last so many years.

2. Petitioners' case is that Bokaro Steel Plant amongst others, there are two Mills, namely, Hot Strip Mill and Hot Rolled Coil Finishing Mill. In these two Mills types of machines have been installed. The petitioners claim that they have been discharging their duties as operators in those Mills and the work the petitioners perform and perennial in nature. It is further contended that the petitioners like other permanent employees of Bokaro Steel Plant have been enrolled as members of the scheme of provident fund under Bokaro Steel Plant. The petitioners allege that their services are governed by the service conditions applicable to the regular employees. The petitioners have relied upon the report of the Deputy Labour Commissioner, Bokaro Steel Plant who, after inspection and investigation reported that the work amongst others in Hot Strip Mill and Hot Rolled Coil Finishing Mill are permanent in nature as they have to do the work continuously.

3. The respondents case, on the other hand in the counter affidavit is that the

job of strapping of finished product have been entrusted to packaging handlers, who engaged their own labour. Their case is that the petitioners are the contract labourers and the job which the petitioners performed are perennial in nature.

4. Even assuming that the petitioners have been working as contract labourers the fact remains that they have been continuously working for the last more than 11-15 years and their work appears to be-perennial in nature. It is, therefore, desirable that the respondent-Management should peruse the petitioners' claim for absorption in, the service, of course, subject to formality that has to be done by the Central Advisory Board.

5. In view of the decision of the Supreme Court in the case of Steel Authority of India Ltd. and Others etc. etc. Vs. National Union Water Front Workers and Others etc. etc., since there can not be automatic absorption of the contract labourers, this Court cannot issue mandamus directing the respondents to absorb the petitioners and/ or regularize their services. Recently in the case of Municipal Corporation of Greater Mumbai v. K.V. Shramik Sangh (2002) LabIC 1672 the Apex Court held that such question with regard to absorption of the contract labourers can not be adjudicated by a writ Court under Article 226 of the Constitution.

6. I, therefore, dispose of this writ application with a direction to the petitioner to approach the Central Advisory Board, who is competent to look into the matter. The respondents shall cooperate with the Advisory Board so that appropriate decision may be taken in the matter of absorption of the petitioners. It is made clear that since the petitioners have been working for the last 14/15 years they shall not be removed from service, if not already removed, till final decision is taken on the basis of the report of the competent Advisory Board. It is also made clear that if the petitioners' approach the appropriate authority then the entire process shall be completed within three months from the date the process begins on the application/representation of the petitioners.