

A ONGC PURBANCHAL EMPLOYEES ASSOCIATION

v.

UNION OF INDIA & ORS.

(Civil Appeal No. 3511 of 2018)

B APRIL 03, 2018

**[KURIAN JOSEPH, MOHAN M. SHANTANAGOUDAR
AND NAVIN SINHA, JJ.]**

C *Appeal: Intra Court appeal – Scope of – Industrial Tribunal passed an award directing regularization of the workers – Single Judge of the High Court upheld the award – Division Bench of High Court taking the view that matter needs a fresh look by the Tribunal – Propriety of – Held: Not proper – A perusal of the award passed by the Industrial Tribunal and detailed analysis made by the Single Judge, show that there is no scope for the Industrial*
D *Tribunal to adjudicate on any further aspect – All relevant aspects were considered meticulously by the Single Judge – Being a writ proceedings, the Division Bench was called upon, in the intra court appeal, primarily to consider the correctness or otherwise of the view taken by the Single Judge – The Division Bench is required to*
E *consider the appeal(s) on merits by deciding on the correctness of the judgment of the Single Judge, instead of remitting the matter to the Tribunal – Thus, impugned judgment of the Division Bench is set aside and matter remitted to it to dispose of writ appeals on merits – Service Law.*

F *Steel Authority of India Ltd. & Ors. v. National Union Waterfront Workers & Ors. (2001) 7 SCC 1 : [2002] 2 Suppl. SCR 106 – referred to.*

Case Law Reference

[2002] 2 Suppl. SCR 106 referred to Para 4
G CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3511 of 2018.

From the Judgment and Order dated 02.02.2012 of the High Court of Gauhati in W. A. No. 266 of 2004

WITH

H Civil Appeal No.3512 of 2018.

Pravir Choudhary, Reepak Kansal, Advs. for the Appellant. A

J. P. Cama, Ms. Kiran Suri, Sr. Advs., Ms. Kumud Lata Das,
Ms. Devyani Ashra, Nayan K., S. S. Ray, Ms. S. Usha Reddy, Raj
Bahadur, Advs. for the Respondents.

The Judgment of the Court was delivered by B

KURIAN, J. Leave granted.

2. The appellants are before this Court, aggrieved by the judgment
of the Division Bench of the High Court remitting an industrial dispute to
the Industrial Tribunal. There are two set of references before the
Industrial Tribunal. In Civil Appeal No..... @ SLP(c) No.23494/2012, C
the reference is as follows:-

“1. Whether the 22 contract labour as per Annexure ‘A’ are
performing permanent and perennial nature of job in the
establishment of ONGC Ltd. Sibsagar and are entitled for regular
employment in ONGC if so, to what relief they are entitled? D

2. Whether the contract labour as per Annexure ‘B’ are performing
same or similar nature of work as being performed by any of the
regular employee of ONGC Ltd. Sibsagar and are entitled for
wages and the benefits as is admissible to other contract labour
under Rule 25(2)(v)(a) of the C.L. (RIA) cum Central Rules, E
1971? If so, to what relief they are entitled?”

3. In Civil Appeal No..... @ SLP(c) No.23495/2012, the
reference reads as follows:-

“Whether the claim of ONGC Contractual Mazdoor Sangha Lakwa
regarding regularization of services of their members (who are
working as contractual workers) in ONGC Ltd. at Lakwa is
justified? If so, to what relief, the workmen are entitled?” F

4. The Industrial Tribunal passed an award directing regularization
of the workers. The same was upheld by the learned Single Judge.

5. However, the Division Bench took the view that the matter
needs a fresh look by the Industrial Tribunal in the light of the decision in
Steel Authority of India Ltd. & Ors. v. National Union Waterfront
Workers & Ors., reported in (2001) 7 SCC 1. The Bench took the view
that the Industrial Tribunal needs to decide as to whether there was a
genuine contract. H

A 6. Aggrieved, the workmen represented by their Associations are before this Court.

7. We have heard Mr. Pravir Choudhury, learned counsel appearing for the appellant, Mr. J.P. Cama, learned senior counsel appearing for the ONGC and Ms. Kiran Suri, learned senior counsel appearing for the Union of India, assisted by other counsel.

8. On going through the award passed by the Industrial Tribunal and detailed analysis made by the learned Single Judge, we find that there is hardly any scope for the Industrial Tribunal to adjudicate on any further aspect. All relevant aspects have been considered meticulously by the learned Single Judge. Being a writ proceedings, the Division Bench was called upon, in the intra court appeal, primarily and mostly to consider the correctness or otherwise of the view taken by the learned Single Judge. Hence, in our view, the Division Bench needs to consider the appeal(s) on merits by deciding on the correctness of the judgment of the learned Single Judge, instead of remitting the matter to the Tribunal.

9. In that view of the matter, we set aside the impugned judgments of the Division Bench and remit the matters to the High Court. We request the Division Bench to dispose of the writ appeals on merits expeditiously, preferably within six months from today.

E 10. The appeals are, accordingly, disposed of.

11. Pending applications, if any, shall stand disposed of.

12. There shall be no orders as to costs.