

GAHC010225192016



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6045/2016

O.N.G.C. CONTRACTUAL LABOUR UNION, SIVASAGAR
REP. BY PRESIDENT, B.G. ROAD, SIBASAGAR- 785640

VERSUS

OIL and NATURAL GAS CORPORATION LIMITED and ANR.
REP. BY THE EXECUTIVE DIRECTOR and ASSET MANAGER, ASSAM ASSET, ONGC
LTD., EASTERN REGION, P.O. NAZIRA, DIST- SIBASAGAR- 785645

2:THE UNION OF INDIA
REP. BY THE SECY. GOVT. OF INDIA
MINISTRY OF PETROLEUM and NATURAL GAS
SHASTRI BHAVAN
NEW DELHI-

Advocate for the Petitioner : MR.B DAS

Advocate for the Respondent : MR.G N SAHEWALLAR-1

Linked Case : WP(C)/1794/2022

CHENIRAM CHUTIA AND 84 ORS
S/O LATE BENU CHUTIA
R/O VILL-KOPOULING
P.S.-SIVASAGAR
DIST-SIVASAGAR
ASSAM
PIN-785640

2: TULARAM CHARUKIA
S/O GHANAKANTA CHARUKIA
R/O VILL-THOWRA JAPISOJIA
P.S.-DEMOW
DIST-SIVASAGAR
ASSAM
PIN-

3: KHOGESWAR CHETIA
S/O LATE HUKHESWAR CHETIA
R/O VILL-THOWRA MAJGAON
P.S.-DEMOW
DIST-SIVASAGAR
ASSAM
PIN-

4: DEBANANDA BORA
S/O NANDESWAR BORA
R/O VILL-HATIMURAI GAON
P.O.-MUWABAZAR GAON
P.S.-AMGURI
DIST-SIVASAGAR
ASSAM
PIN-

5: ARUN HANDIQUE
S/O NUMAL HANDIQUE
R/O VILL-GOHAINPUKHURI GAON
P.O.-POWULIGURI
P.S.-DEMOW
DIST-SIVASAGAR
ASSAM
PIN-

6: RAJU PHUKAN
S/O LALI PHUKAN
R/O PATSAKU BORUAH
P.O.-PATSAKU
P.S.-NEMUGURI
DIST-SIVASAGAR
ASSAM
PIN-

7: PRONAB GOGOI
S/O NUMAL GOGOI
R/O VILL-BOKATA BORAPIAL
P.O.-NANGALAMARA
P.S.-NEMUGURI
DIST-SIVASAGAR
ASSAM
PIN-

8: DIPEN DIHINGIA
S/O RAJEN DIHINGIA
R/O VILL-BETBARI 2 NO. KONWAR
P.O.-BETBARI
P.S.-SIVASAGAR
DIST-SIVASAGAR
ASSAM
PIN-

9: ANUJ PHUKAN
S/O TRALAKYA PHUKAN
R/O VILL-BURAGOHAIN BOR GAON
P.O.-BORMALI
P.S.-KAKOTIBARI
DIST-SIVASAGAR
ASSAM
PIN-

10: SUNIL BORUAH
S/O LOKNATH BORUAH
R/O VILL-JAPISOJIA
P.O.-RAJMAI
P.S.-DEMOW
DIST-SIVASAGAR
ASSAM
PIN-

11: RUPOKJYOTI BORAH
S/O ARUN BORAH
R/O VILL-NO. 1 CHINTAMONI
P.O.-CHINTAMONI
P.S.-GAURISAGAR
DIST-SIVASAGAR
ASSAM
PIN-

12: SATISH BEZBORUAH
S/O GAJEN BEZBORUAH
R/O VILL-RAISAI GAON
P.O. AND P.S.-DEMOW
DIST-SIVASAGAR
ASSAM
PIN-

13: CHITRA CHUTIA
S/O TEPURAM CHUTIA
R/O VILL-KOPWTING
P.O.-BORHOIRTING
P.S.-SIVASAGAR
DIST-SIVASAGAR
ASSAM
PIN-

14: RANA BORGOHAIN
S/O LATE SUMESWAR BORGOHAIN
R/O VILL-MACHAGARH DEMOWKINAR
P.O.-AMKOTTA
P.S.-DEMOW
DIST-SIVASAGAR
ASSAM

PIN-

15: MONESWAR BORAH
S/O PHALIK BORAH
R/O VILL-NO. 1 CHINTAMONI
P.O.-RAJMAI
P.S.-DEMOW
DIST-SIVASAGAR
ASSAM
PIN-

16: PADUM CHETIA
S/O AKONI CHETIA
R/O VILL-HAHCHARA NAPAM CHETIA
P.O.-SINGHADWAR
DIST-SIVASAGAR
ASSAM
PIN-

17: BINOY CHETIA
S/O NITYA NANDA CHETIA
R/O VILL-HAHCHARA NAPAM CHETIA
P.O.-SINGHADWAR
DIST-SIVASAGAR
ASSAM
PIN-

18: KHOGEN BORUAH
S/O SONARAM BORUAH
R/O VILL-PALENGI KASUONI GAON
P.O.-RAJMAI
P.S.-DEMOW
DIST-SIVASAGAR
ASSAM
PIN-

19: SUBRAT NEOG
S/O UPEN NEOG
R/O VILL-KATHALBORIA
P.O.-KALOOGAON
P.S.-SIVASAGAR
DIST-SIVASAGAR
ASSAM
PIN-

20: UTPAL DUARAH
S/O SUREN DUARAH
R/O VILL-KHANAMUHK NO. 1 MOUTGAON
P.O.-MOUTGAON
DIST-SIVASAGAR
ASSAM
PIN-

21: MANASHJYOTI CHUTIA
S/O MONU CHUTIA
R/O VILLAGE- KATHPER GAON
P.O. BANMUKH
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

22: BOLIN CHANDRA GOGOI
S/O PIYARAM GOGOI
R/O VILLAGE- LAPAI DIGOLDORIYALI
P.O. DEMOW
P.S. DISANGMUKH
DISTRICT- SIVASAGAR
ASSAM
PIN-

23: PRATIM BORUAH
S/O JUNARAM BORUAH
R/O VILLAGE- HOLOGURI
P.O. HOLOGURI
P.S. NEMUGURI
DISTRICT- SIVASAGAR
ASSAM
PIN-

24: BITUL GOGOI
S/O LATE JOGESWAR GOGOI
R/O VILL- SINGHADUAR GAON
P.O. SINGHADUAR
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

25: TRILUCHAN GOGOI
S/O ARUN GOGOI
R/O VILL- HAHCHARA DEHINGIA GAON
P.O. SINGHADUAR
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

26: DURLAV BORUAH
S/O AMBESWAR BORUAH
R/O VILL- BOGIDOL GAON
P.O. BOGIDOL
P.S. SIVASAGAR
DISTRICT- SIVASAGAR

ASSAM
PIN-

27: ANJAL CHUTIA
S/O LILARAM CHUTIA
R/O VILL- BOGIDOL BHAKATGAON
P.O. BOGIDOL
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

28: RAJIB MOHAN
S/O LATE PUSPA MOHAN
R/O VILL- BOKOTA PARIJAT
P.O. HOLOGURI
P.S. NEMUGURI
DISTRICT- SIVASAGAR
ASSAM
PIN-

29: MONUJ DUTTA
S/O GANGADHOR DUTTA
R/O VILLAGE- 2 NO. SALAGURI
P.O. SALUGURI
DISTRICT- SIVASAGAR
ASSAM
PIN-

30: RONJU PANGING
S/O DEVILAL PANGING
R/O VILL- LIGIRABARI
P.O. KONWARPUR
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

31: RAJU DAS
S/O LAKHIRAM DAS
R/O VILL- AKHOIPHUTIA GHAT
P.O. AKHOIPHUTIA
DIST- SIVASAGAR
ASSAM
PIN-

32: PRAKHENDRAJIT BURAGOHAIN
S/O DURGANATH BURAGOHAIN
R/O VILLAGE- DELIHI GOHAIN GAON
P.O. GOHAIGAON
DISTRICT- SIVASAGAR
ASSAM

PIN-

33: ABANI YEIN
S/O CHANDRA YEIN
R/O VILLAGE- DEMOWMUKH
P.O. DEMOWMUKH
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

34: JUGENDRA PANGING
S/O URSON PANGING
R/O VILL- DIGHAKL DARI ALI
P.O. DEMOWMUKH
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

35: SHISHANTA CHETIA
S/O ROMESH CHETIA
R/O VILL- CHETIA GAON
P.O. PANBECHA
DISTRICT- SIVASAGAR
ASSAM
PIN-

36: GIRIN MILI
S/O LAKHESWAR MILI
R/O VILLAGE- BOLOMA
P.O. DISANGMUKH
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

37: MANASH JYOTI GOGOI
S/O SWUDHAN GOGOI
R/O VILL- NAZIRA NAMTI KHAMDUNG
P.O. NAZIRA NAMALI
DISTRICT- SIVASAGAR
ASSAM
PIN-

38: PRANAB JYOTI CHUTIA
S/O HEMADHOR CHUTIA
R/O VILL- NABA JUWAR
P.O. UDAYANPUR
P.S. DEMOW
DISTRICT- SIVASAGAR
ASSAM

PIN-

39: RUPOM KNOWAR
S/O BHUBON KONWAR
R/O VILL- SANTIPUR
P.O. UDOIPUR
P.S. NITAI
DISTRICT- SIVASAGAR
ASSAM
PIN-

40: DEBOJIT DUWARA
S/O PURNA KANTA DUWARA
R/O VILLAGE- TENGA NAGAR
P.O. JOYNAGAR
P.S. JOYNAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

41: SUBUDH BURAGOHAIN
S/O GOBIN CH. BURAGOHAIN
R/O VILL- DELIHI GOHAIN GAON
P.O. JOYPUR
DISTRICT- SIVASAGAR
ASSAM
PIN-

42: MONUJ RANJAN CHUTIA
S/O BUDHESWAR CHUTIA
R/O VILL- SOLIGURIA (HAHCHARA)
P.O. HANCHARA
DISTRICT- SIVASAGAR
ASSAM
PIN-

43: JOTIN BORGOHAIN
S/O NABIN BORGOHAIN
R/O VILL- SINGHDUAR GOHAIN GAON
P.O. SINGHADUAR
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

44: ATUL CHANGMAI
S/O SUMEDHOR CHANGMAI
R/O VILL- PANBASA GAON
P.O. PANBASA
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM

PIN-

45: DIJEN CHUTIA
S/O LATE JITUL CHUTIA
R/O VILL- KATHPUR BANMUKH
P.O. BANMUKH
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

46: PRANJAL CHUTIA
S/O NAGEN CHUTIA
R/O VILL- HAHCHARA SOLOGURI
P.O. HAHCHARA KUJABALI
P.S. DISTRICT- SIVASAGAR
ASSAM
PIN-

47: NABIN CHUTIA
S/O SARAT CHUTIA
R/O VILL- ADABARI CHUTIA GAON
P.O. SANTAK
DIST- SIVASAGAR
ASSAM
PIN-

48: BINOY KUMAR SAIKIA
S/O NANDESWAR SAIKIA
R/O VILL- DARIKAPARA KONWAR GAON
P.O. BETBARI
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

49: PANCHANA GOGOI
S/O DURGA GOGOI
R/O VILL- HAHCHARA DIHINGIA GAON
P.O. SINGHADUAR
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

50: JITU CHETIA
S/O TUKHESWAR CHETIA
R/O VILL-BOGIDOL BHARALI GAON
P.O. BOGIDOL
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM

PIN-

51: BAISHNAB KONWAR
S/O LATE SIKON KONWAR
R/O VILL- BOGIDOL BHARALI GAON
P.O. BOGIDOL
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

52: DIPAK TAMULI
S/O DHONIRAM TAMULI
R/O VILL- BORAH BARI MOUT GAON
P.O. BORAH
P.S. AMGURI
DISTRICT- SIVASAGAR
ASSAM
PIN-

53: AMOR JYOTI BORUAH
S/O BUDHESWAR BORUAH
R/O VILL- BOKOTA KORONGA
P.O. HOLOGURI
P.S. NEMUGURI
DISTRICT- SIVASAGAR
ASSAM
PIN-

54: LAKHYJIT PHUKAN
S/O JOYCHANDRA PHUKAN
R/O VILL- BURAGOHAIN BOR GAON
P.O. BOROMALI
P.S. KAKOTIBARI
DISTRICT- SIVASAGAR
ASSAM
PIN-

55: KSHIRUD PHUKAN
S/O JATIN PHUKAN
R/O VILL- JOJOLI HABI GAON
P.O. BONOMALI
P.S. KAKOTIBARI
DISTRICT- SIVASAGAR
ASSAM
PIN-

56: HIRAKJYOTI MOHAN
SON OF TANKESWAR MOHAN
R/O VILL- BURAGOHAIN BOR GAON
P.O. BOTOMALI
P.S. KAKOTIBARI

DISTRICT- SIVASAGAR
ASSAM
PIN-

57: ARUP JYOTI PATHAK
S/O DHIREN PATHAK
R/O VILL- JUGDUAR
P.O. JUGDUAR
P.S. JUGDUAR
DISTRICT- JORHAT
ASSAM
PIN-

58: SWROUP BURAGOHAIN
S/O LATE CHANDRA NATH BURAGOHAIN
R/O VILL- DELIHI GOHAIN GAON
P.O. DELIHI GOHAIN
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

59: JYOTI RAJKHUWA
S/O DIPESWAR RAJKHUWA
R/O VILLAGE- KHARGHORIA DOBA (BORCHAKARI) P.O. MORANJAN
P.S. MORANHAT SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

60: DEBAJIT KONWAR
S/O PUNYA KONWAR
R/O VILL- VHENGELIBARI NAPAM KOWAR GAON
P.O. CHENGELIBARI
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

61: ABHIJIT DUARAH
S/O PURNA KANTA DUARAH
R/O VILLAGE- JERENGA NAGAR
P.O. JOYSAGAR
P.S. JOYSAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

62: JADUMONI KAKATY
S/O JETINDRA NATH KAKATY
R/O VILL- GHILAGURI GAON
P.O. BETBARI

P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

63: ARUN CHUTIA
S/O KONBAPU CHUTIA
R/O VILL- HAHCHARA SOLOGURIA GAON
P.O. HAHCHARA
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

64: RAJIB SARKAR
S/O BISHSWARNATH SARMA
R/O VILL- ALICHUGA LIGIRI BARI
P.O. DISANGMUKH
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

65: RATUL PANGING
S/O KUTCHAI PANGING R/O VILL- SITADUBI
P.O. KONWARPUR
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

66: PANKAJ GOGOI
S/O LATE TANKA GOGOI
R/O VILL- HAHCHARA LEBANG
P.O. DAYA CHARIALI
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

67: HIRAN BORUAH
S/O SUREN BORUAH
R/O VILL-BURAGOHAIN BOR GAON P.O. BOROMALI
P.S.KAKOTIBARI
DISTRICT- SIVASAGAR
ASSAM
PIN-

68: PAPU SENSUA
S/O NOREN SENSUA
R/O VILL- KESHUWANI GAON
P.O. PALENGI

P.S. DEMOW
DISTRICT- SIVASAGAR
ASSAM
PIN-

69: PURUKHUTTAM CHUTIA
S/O NOKUL CHUTIA
R/O VILL- HAHCHARA SOLOGURIA
P.O. HAHCHARA
P.S.SIVASAGAR
DIST- SIVASAGAR
ASSAM
PIN-

70: DIMBESWAR GOGOI
S/O LATE GOPAL GOGOI
R/O VILL- HORUALI GAON
P.O. SILPUTA
P.S. KHOWANG
DISTRICT- DIBRUGARH
ASSAM
PIN-

71: TULAN GOGOI
S/O HEMA KANTA GOGOI
R/O VILL- DEMOW MODHUOUR GAON
P.O. DEMOW
P.S. DEMOW
DISTRICT- SIVASAGAR
ASSAM
PIN-

72: SONJOY BORGOHAIN
S/O BIMAL BORGOHAIN
R/O VILL- PANBESA GARKUSH GAON
P.O. PANBESA P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

73: PINKU SENSUA
S/O DHARMESWAR SENSUA
R/O VILL- PALENGI KASUONI GAON
P.O. RAJMAI
P.S. DEMOW
DISTRICT- SIVASAGAR
ASSAM
PIN-

74: BULU GOGOI
S/O LATE JIBESWAR GOGOI
R/O VILLAGE- 2 NO. MOTHAGANG

P.O. DEMOW MUKH
P.S. DISANGMUKH
DISTRICT- SIVASAGAR
ASSAM
PIN-

75: ARUN GOGOI
S/O BANI KANTA GOGOI
R/O VILL- 2ND CHAULKARA GAON
P.O. AKHOIPHUTIA
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

76: RAJIB GOGOI
S/O LATE DILIP GOGOI
R/O VILL- 2 NO. CHAUL KARA GAON
P.O. AKHOIPHUTIA
P.S. SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-

77: BIKASH PHUKAN
S/O SOCHI PHUKAN
R/O VILLAGE- 2 NO. MOTHAGANG
P.O. DEMOW MUKH
P.S. DISANGMUKH
DISTRICT- SIVASAGAR
ASSAM
PIN-

78: ANUJ PRATIM GOGOI
S/O BULAN GOGOI
R/O VILLAGE- DADHARA GAON
P.O. BALIJAN
P.S. KAKOTIBARI
DISTRICT- SIVASAGAR
ASSAM
PIN-

79: SANJIB BORAH
S/O SUREN BORAH
R/O VILL- JOGDUAR NANG PACHAMI GAON
P.O. JOGDUAR
P.S. TEOK (JORHAT)
DISTRICT- JORHAT
ASSAM
PIN-

80: ABHIJIT KALITA

S/O LATE THUPUR KALITA
R/O VILL- JOGDUAR HABI GAON
P.O. JOGDUAR
P.S. TIOK (JORHAT)
DISTRICT- JORHAT
ASSAM
PIN-

81: KUKIL MOHAN
S/O NAGEN MOHAN
R/O VILL- NAHARTOLI GAON
P.O. KHALOIGHUGURA
P.S. MORANHAT
DISTRICT- SIVASAGAR
ASSAM
PIN-

82: DEBABROT MOHAN
S/O CHITRA MOHAN
R/O VILL- NAHARTOLI GAON
P.O. KHALOIGHUGURA
P.S. MORANHAT
DISTRICT- SIVASAGAR
ASSAM
PIN-

83: RICHARDSON KONWAR
S/O PRODIP KONWAR
R/O VILL- SEPON TAMULTOLI
P.O. SEPON
P.S. MORANHAT
DISTRICT- SIVASAGAR
ASSAM
PIN-

84: BUBUL SANGMAI
S/O NABIN SAMGMAI
R/O VILL- HAHCHARA CHANGMAI GAON
P.O. HAHCHARA (KUJIBALI)
P.S. CHEREKAPAR
DIST- SIVASAGAR
ASSAM
PIN-

85: GAKUL SWAMI GOGOI
S/O TILAK GOGOI
R/O SONATI 1 NO. WARD
P.O.SONARI
P.S. SONARI DISTRICT- SIVASAGAR
ASSAM
PIN-
VERSUS

THE UNION OF INDIA AND ANR
REPRESENTED BY THE SECRETARY
GOVT. OF INDIA
MINISTRY OF PETROLEUM AND NATURAL GAS
SHASTRI BHAWAN
NEW DELHI-1

2:THE OIL AND NATURAL GAS CORPORATION LTD.
REPRESENTED BY THE EXECUTIVE DIRECTOR AND ASSET MANAGER
ASSAM ASSET
ONGC LTD.
EASTERN REGION
P.O.-NAZIRA
DIST- SIVASAGAR
ASSAM
PIN-785645

B E F O R E

Hon'ble MR. JUSTICE SANJAY KUMAR MEDHI

JUDGMENT & ORDER

Advocates for the petitioners: Shri A. Dasgupta, Sr. Advocate &
Shri B. Das, Advocate [in WP(C) 6045/2016];
Shri B. Talukdar, Advocate [in WP(C) 1794/2022]

Advocates for respondents : Shri G.N. Sahewalla, Sr. Advocate.
Shri B.K. Das, Advocate,
Shri N.A. Singh, Advocate

Date of hearing : 08.06.2023

Date of judgment : 08.06.2023

1. Both these two writ petitions having raised an analogous issue are taken up for disposal by this common judgment and order.

2. While WP(C)/6045/2016 has been filed by the O.N.G.C. Contractual Labour

Union, WP(C)/1794/2022 has been filed by 85 numbers of such contractual labourers. At the outset, it is to be noted that it is an admitted fact that the 85 nos. of petitioners in the second writ petition are also members of the Union which is the petitioner in the first writ petition.

3. Before going to the issue which has arisen for adjudication, the facts of the case may be narrated in brief in the following manner.

4. An Industrial Dispute was raised for consideration in the year 2009 before the Central Government Industrial Tribunal, Guwahati (herein after CGIT). During the pendency of the Reference, a settlement was arrived at between the O.N.G.C. and the Union after a conciliation dated 18.07.2012 at Gujarat. The terms of the reference is however required to be mentioned which is extracted herein below:

“Whether the action of the management of O.N.G.C. Ltd, Assam Asset, Nazira and ONGC, Assam-Assam Arakan Basin, Jorhat in denying to concede to the demand of the union to enhance / increase or revise the prevalent rate of minimum wages relating to the contractual workers under them (As on 01.11.2008) at least at par to any unit of O.N.G.C. Ltd. in India (Including Eastern Region) or at least at par to the prevalent rate of wages in the contiguous Oil Industry, like OIL India/NRL/IOCL(AOD)/BRPL, Situated in the State of Assam is Justified? What rate of wages should be logical and rational and the contractual workers raised the dispute are thus entitled to?.

This reference was registered as Ref. Case No. 4/2009.”

5. The learned Tribunal had accordingly passed an Award dated 25.09.2014 in Reference Case No. 04/2009 in terms of the settlement arrived at after a conciliation proceeding. The relevant part of the Award which has incorporated the terms of the

settlement is extracted here in below:

“1. Job Security of the contract workers: Both the parties agreed that as per existing practice, whenever contractor of ONGC changes, list of the contract workers engaged by previous contractor will be provided to the new contractor so that same contract worker can be engaged. The contract workers who were engaged as on 24.06.08 and continued to be engaged till date and also those who were engaged on 01.01.11 and have continued till date will only be eligible to be included in the list. However, the contract labour can be removed on the following grounds;

(i) After attaining the age of superannuation i.e. 60 years.

(ii) He is unfit to work and can be removed on health ground after proper medical check-up and after payment of statutory dues.

(iii) On disciplinary ground after conducting proper enquiry as per procedure / law following the principle of natural justice.

(iv) he has abandoned the job on his own or remains absent for a long time.

(V) There is reduction in the activities of the company / closure of establishment.”

6. The aforesaid settlement which is a part of the Award makes it clear that the benefits which would accrue upon the workmen would be such contract workers who were engaged as on 24.06.2008 and continued to be engaged till date and also who were engaged on 01.01.2011 and have continued till date will only be eligible for the privilege and benefits of the Settlement.

7. The present list concerns such members of the Union who are also petitioners in

the second writ petition who were engaged prior to 24.06.2008 but was not continuing as on the cut-off date which was fixed on 01.04.2012. The relief which the petitioners are praying for is that consideration of the case for engagement as and when works are taken up by the ONGC being the principal employer through any contractor.

8. I have heard Shri A. Dasgupta, learned Senior Counsel for the petitioner in WP(C)/6045/2016 assisted by Shri B. Das, learned counsel whereas Ms. B. Talukdar, learned counsel has appeared for the petitioners in WP(C)/1794/2022. I have also heard Shri G.N. Sahewalla, learned Senior Counsel assisted by Shri B.K. Das as well as Shri N.A. Singh, learned counsel for the ONGC. The materials placed before this Court have also been carefully examined.

9. Before proceeding further, the prayer made in WP(C)/6045/2022 is to be taken note of which is extracted herein below:

“In the premises aforesaid, the petitioner pray that Your Lordships may be pleased to admit this petition, call for the records and issue Rule calling upon the respondents to show cause as to why the contract labourers who were disengaged prior to 01.04.2012 (as indicated Annexure-F) shall not be engaged as contract labourer in the event of engagement of new contract labourers as ensured by the fair wage policy with respect to the contract labourers who were in their job as on 01.04.2012 and upon hearing the cause or causes that may shown by the respondent Your Lordships may be pleased to make the Rule absolute and / or pass any such order / orders as Your Lordships may deemed fit and proper.”

10. In the second writ petition, the prayer is substantially the same with some more particulars in the form of praying for engagement of contractual labourers who were disengaged prior to 01.04.2012.

11. Shri Dasgupta, the learned Senior Counsel has submitted that in fact an application under Section 33A of the Industrial Dispute Act, 1947 was filed not to change the service conditions. However, in the terms of the settlement, the application was withdrawn which was done as the part of the settlement itself and thereafter, the Award was passed. The learned Senior Counsel had also referred to Section 25 H of the Act of 1947 which relates to Re-employment of retrenched workmen. He submits that the petitioners should be given the benefit of such provision of law. He further submits that the definition of "Employer" appearing in Section 2 (g) of the Act of 1947 is similar to such definition of "Principal Employer" appearing in Section 2 (g) of the Contract Labour (Regulation and Abolition) Act, 1970. It is the submission of the learned Senior Counsel for the petitioners that when there is no material difference in the expression "Employer" under the Act of 1947 and "Principal Employer" under the Act of 1970, the provisions of Section 25 H of the Act of 1947 should also apply to the contract labourers. By referring to the prayer, it is submitted by the petitioners that as on today, the numbers which had existed earlier had substantially reduced and therefore, a direction may be given that as an when a new contractor is engaged, the cases of the petitioners may be directed to be considered for engagement and in such case, a fair wages should also be directed to be given to the petitioner.

12. *Per contra*, Shri Sahewalla, the learned Senior Counsel for the ONGC has submitted that the writ petitions are misconceived. He submits that the Award dated 25.09.2014 has been passed in terms of the Settlement arrived at between the parties and unless the said Award is the subject matter of challenge, the relief claimed cannot be given. He otherwise submits that under Section 18 of the Act of 1947, the terms of the settlement are binding on the parties. He further submits that the present Settlement is after a conciliation and therefore, the binding effect would be on all concerned and once the Union who represents the members and the petitioners in the

second case have agreed upon certain terms, they cannot be allowed to turn around and claim additional reliefs which would be in the teeth of the statutory provisions laid down in Section 18. The learned Senior Counsel further submits that the provisions of Section 25 H of the Act of 1947 would not be applicable at all as the same is for retrenched workmen and in the instant case that issue has not arisen for consideration at all. The learned Senior Counsel, however, fairly submits that it is open for the Union to approach for a new settlement.

13. The rival submissions have been duly considered and the materials placed before this Court have been carefully examined. From the prayers made in these two writ petitions, it becomes apparent that a direction has been sought for to give the petitioners the benefit of the Award in spite of the fact that the Award is based on a settlement arrived at by the Union espousing the cause of the petitioners and that too after conciliation. A bare perusal of the Settlement which has been annexed to the writ petition would reflect that the same was arrived at after a conciliation proceedings held on 18.07.2012.

14. Section 18 of the Act of 1947 lays down upon whom the Settlements and Awards would be binding. While sub-section (1) lays down that the settlement arrived at by agreement between the employer and the workmen otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement, sub-section (3) makes it clear that such settlement arrived at in course of a conciliation proceedings under this Act or an Award of the Labour Court, Tribunal shall be binding, amongst others on all the parties to the industrial dispute. In the instant case, as noted above, the Award dated 25.09.2014, has been passed solely in terms of the Settlement. As extracted above, the terms of the Settlement states that the contract workers who were engaged as on 24.06.08 and continued to be engaged till date and also those who were engaged on 01.01.11 and have continued till date will only be

eligible to be included in the list.

15. The Hon'ble Supreme Court in the case of ***Ramnagar Cane & Sugar Company Ltd. Vs. Jatin Chakraborty and Ors.*** reported in ***AIR 1960 SC 1012*** had explained the binding nature of a Settlement under Section 18 (3)(d) [as it then was] on all persons employed in an Establishment. For ready reference, the relevant paragraph is extracted herein below:

“5. In appreciating the merits of the rival contentions thus raised in this appeal it is necessary to bear in mind the scheme of the Act. It is now well settled that an industrial dispute can be raised in regard to any matter only when it is sponsored by a body of workmen acting through a union or otherwise. When an industrial dispute is thus raised and is decided either by settlement or by an award the scope and effect of its operation is prescribed by Section 18 of the Act. Section 18(1) provides that a settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement; whereas Section 18(3) provides that a settlement arrived at in the course of conciliation proceedings which has become enforceable shall be binding on all the parties specified in clauses (a), (b), (c) and (d) of sub-section (3). Section 18(3)(d) makes it clear that, where a party referred to in clauses (a) or (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part, would be bound by the settlement. In other words, there can be no doubt that the settlement arrived at between the appellant and the Employees' Union during the course of conciliation proceedings on February 25, 1954, would bind not only the members of the said Union but all workmen employed in the establishment of the appellant at that date. That inevitably means that the respondents would be bound by the said settlement even though they may belong to the rival Union. In order to bind the workmen it is not necessary to show that the said workmen belong to the Union which was a party to the dispute before the conciliator. The whole policy of Section 18 appears to be to give an extended operation to the settlement arrived at in the course of conciliation proceedings, and that is the object with which the four categories of persons bound by such settlement are

specified in Section 18, sub-section (3). In this connection we may refer to two recent decisions of this Court where similar questions under Section 19(6) and Section 33(1)(a) of the Act have been considered. (Vide: Associated Cement Companies Ltd., Porbandar v. Workmen and New India Motors (P.) Ltd. v. K.T. Morris.

16. The aforesaid view of the Hon'ble Supreme Court has been consistently followed in subsequent decisions namely, **General Manager, Security Paper Mill vs. R.S. Sharma** reported in **(1986) 2 SCC 151**; **Barauni Refinery Pragatisheel Shramik Parishad vs. Indian Oil Corporation Ltd.** reported in **(1991) 1 SCC 4**. In a recent decision dated 04.02.2022 passed in Civil Appeal No. 1033/2022 (**M/S ONGC vs. The President, Oil Field Employees Association**) the Hon'ble Supreme Court has again referred to the said decision.

17. This Court is of the considered opinion that when a Settlement was arrived at which was also transmitted in the form of an Award, the same Union cannot take u-turn and make further claims which is not in terms of the Settlement. The matter would have been different if the Award was the subject matter of challenge in an appropriate manner which however is not the case. In that view of the matter, the relief claimed, in the considered opinion of this Court is unsustainable and therefore, cannot be granted.

18. Reference was made to Section 25 G of the Act of 1947 by bringing the analogy of the definition of "Employer" and "Principal Employer" appearing in the two Acts. This Court however is unable to accede to the said contention as the connotation of Section 25 H is wholly different as it relates to re-employment of retrenched workmen. In any case, after a Settlement was reached between the parties, it would not lie on any of the parties to the Settlement to claim something which was not agreed upon and not in conformity with the agreed terms of the Settlement.

19. Under those facts and circumstances, this Court is of the opinion that no case for interference or granting of any relief is made out and accordingly, both the writ petitions are dismissed. This Court, however, leaves it open for the parties to reach any further Settlement for redressal of the grievance which has to be done strictly in accordance with law.

JUDGE

Comparing Assistant