

14.08.2026
Item No.19
Ct. No. 30
Aloke

WPA 24667 of 2023

**Central Public Works Department, Workers Union
& Anr.
Vs
The Special Director General, Kolkata Central
Public Works Department & Ors.**

Mr. Swarup Paul
Mr. Guru Saday Dutta
Mr. Anis Roy
... for the petitioners

Mr. S.N. Dutta
Ms. Amrita Pandey
Ms. Ayushi Mishra
... for the UOI

1. The writ application has been preferred praying for directions upon the respondents to extend the benefit in terms of the order dated 03/12/2019 passed by the Hon'ble Division Bench of this Court, upholding the order dated 03/07/2013 passed by the Deputy Chief Labour Commissioner (Central), Kolkata by granting same and similar wages and other benefits including DA with retrospective effect to the contract labourers in CPWD to the Application and also to extend the benefit of granting arrear dues along with interest and to consider the representation dated 18/08/2023 to the application and to extend the benefit arising in terms of the order dated 03/12/2019 passed by the Division Bench Hon'ble High Court, Calcutta upholding the order dated 03/07/2013 passed by the Deputy Chief Labour Commissioner (Central), Kolkata by granting same and similar wages

including and other benefits retrospective DA effect to with the contract labourers in CPWD to the Application.

2. Both parties have filed their respective notes in course of hearing and relied upon certain judgments in their favour.

3. Affidavits were also exchanged by the parties which are part of the record.

4. On hearing the learned counsels for the parties and on perusal of the materials on record, it appears that the Deputy Labour Commissioner (Central), Kolkata, the authority under Rule 25(2)(v)(a) & (b) of CL(R&A) Central Rules had passed an order dated 3rd July, 2013 in respect of the issue/dispute which was raised between the parties.

5. Being aggrieved the said order was challenged before the Single Bench of the High Court in **WPA 2129(W) of 2014**. The Single Bench vide its order dated 14.01.2019 was pleased to dispose of the writ application on the following observations:

“By the impugned order, the Deputy Chief Labour Commissioner found labourers engaged by contractors are entitled to similar pay and allowances including Dearness Allowances as that of regular employees of CPWD. It did not return a finding that the labourers engaged by the contractors are employees of CPWD.

In such circumstances, CPWD is not liable to pay the allowances and benefits as directed by the impugned order to the labourers of the contractors. It is open to such labourers to

realize their claims from their appointing authorities in accordance with law."

6. An appeal was preferred before the Hon'ble Division Bench in **FMA 182 of 2019** wherein the Hon'ble Division Bench was pleased to direct as follows:

*"Hence we clarify and modify the impugned order dated 14th January 2019 by saying that any stipulation in the said order will not affect the right of the contract labour under the aforesaid provisions of the said Act to realise **unpaid wages from the principal employer**.*

We further order that the CPWD authorities will act in accordance with this order modifying the order dated 14th January 2019 read with section 21 and other relevant provisions of the said 1970 Act and the order of the Deputy Chief Labour Commissioner dated 3rd July 2013, within four weeks of communication of this order by recording the same in a reasoned decision."

7. The order of the Division Bench dated 03.12.2019 still holds good as no appeal has been preferred against the said order.

8. Subsequently, the respondent authorities issued a letter in October 2021 wherein the following information was requested:

"Hence we clarify and modify the impugned order dated 14th January 2019 by saying that any stipulation in the said order will not affect the right of the contract labour under the aforesaid provisions of the said Act to realise unpaid wages from the principal employer.

We further order that the CPWD authorities will act. in accordance with this order modifying the order dated 14th January 2019 read with section 21 and other relevant provisions of the said 1970 Act and the order of the Deputy Chief Labour Commissioner dated 3rd July 2013, within four weeks of communication of this order by recording the same in a reasoned decision."

9. Subsequently, the respondent authorities issued a letter in October 2021 wherein the following information was requested:

"3. It is, therefore, requested that the following information may be submitted to this Directorate to examine the matter further :

- (a) Number of workers involved.*
- (b) Mode of engagement of workers i.e. whether work was awarded to contractor or the contractor was asked to provide manpower to the Department.*
- (c) Liabilities of payment of minimum wages under the Minimum Wages Act lies with the contractor then why the Department is asking the worker to realize equal pay for equal work from the contractor.*
- (d) Complications involved. if payments are made directly to workers by the Department in compliance of Hon'ble High Court orders."*

10. The Chief Engineer, Calcutta vide its order dated 19.02.2021 passed a reasoned order in compliance with the orders of the High Court more so the order of the Division Bench and finally decided as follows:

"Accordingly it is decided by the competent authority that as per order dated 14-01-2019 of Hon'ble Single Bench and order dated 03-

12-2019 of Hon'ble division bench of Hon'ble High Court at Calcutta the as principal employer as per applicants are to realize their claims from their appointing authorities in accordance with law and CPWD will act section 21 of the Contract Labour (Regulation And Abolition) Act, 1970 and to take appropriate action as per contract."

11. Minutes of the meeting dated 16.02.2023 shows that the Labour Enforcement Officer - III (Central), Kolkata recorded as follows:

"During the meeting I asked the Executive Engineer Shri Khan to brief me what action has been initiated for payment of arrear arising out of the order of the authority under contract labour act regarding the arrear payment. Shi Khan told that the committee which was constituted to specifically to look into this matter could not reach a consensus and the next date of meeting is fixed to 17-02-2023 i.e. tomorrow.

Further I explained to the Engineers present that since the order of the authority is categorical and Honourable High court of Kolkata has already scrutinized the matter twice and has ordered that the CPWd as principal employer cannot shrug off its responsibility as far as the rights of the contract workers therefore there is no further ground to hold up the matter and any delay will lead to contempt of Court order. Further to break the ice and simplify the matter further the undersigned proposed that, Let the CPWd authorities write a formal letter to union to clarify its stand on the component of wages that should be considered as the wages due

for calculation of arrear upto 31-12-2020 from the date of order Thereafter CPWD will take a decision and then a special task force can be constituted to calculate the arrear and effect the payment on war footing. Everything should be settled in 3 weeks time i.e. on or before 10-03-2023 failing which the Union will approach the Honourable High court to enforce action for contempt of court order.

The next date of meeting is therefore fixed to 10-03-2023 at 11.30 PM in the chamber of undersigned. The SDG and Chief Engineers are advised to take affirmative action to resolve the issue during this period."

12. It is submitted by the learned counsel for the petitioners that in spite of the said direction the respondent authorities have not considered the prayer of the petitioners till date.

13. Accordingly, the writ application is disposed of with the direction that the respondent authorities being the respondent nos. 1 and 2 shall take immediate steps on considering the representation dated 18/08/2023 filed by the petitioners herein to the application and to extend the benefit which arises in terms of the order dated 03/12/2019 passed by the Hon'ble Division Bench of this Court, upholding the order dated 03/07/2013 passed by the Deputy Chief Labour Commissioner (Central), Kolkata by granting same and similar wages including and other benefits retrospective DA effect to with the contract labourers in CPWD to the Application.

14. The said order be complied with as directed by the Hon'ble Division Bench, within 60 days from the date of communication of this order.

15. The writ application stands disposed of.

16. Connected application, if any, stands disposed of.

17. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)