



HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA, C.J.

AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY, J.

16th February, 2026

Special Appeal No. 357 of 2023

Bharat Heavy Electricals Limited & another
-----Appellants
Versus
Shri Rajendra Singh @ Rajendra and others
-----Respondents

Presence:-

Ms. Pinky Anand, learned Senior Advocate, assisted by Mr. Lalit Belwal, A.K.Roy, Mr. Ashish Belwal and Mr. Virendra Mohan learned counsel for the appellants.
Mr. T.A.Khan, learned Senior Counsel, assisted by Mr. Mohd. Shafy, learned counsel for the respondents.

JUDGMENT: (per Manoj Kumar Gupta, C.J.)

1. Heard Ms. Pinky Anand, learned Senior Counsel, assisted by Mr. Lalit Belwal, learned counsel for the appellants and Mr. T.A.Khan, learned Senior Counsel, assisted by Mr. Mohd. Shafy, learned counsel for the respondents.
2. The appeal is beyond time by 380 days. Although the appeal is highly belated as there is no satisfactory explanation for the delay, however, on persuasion of



learned Senior Counsel appearing for the appellants, we also examined the order of the learned Single Judge dated 30.08. 2022, which reads as follows:

“Mr. T.A. Khan, Senior Advocate, assisted by Mohd. Shafy, Advocate, holding brief of Mr. Vinay Bhatt, Advocate for the petitioners.

Mr. V.K. Kohli, Senior Advocate, assisted by Mr. Kanti Ram Sharma, Advocate, holding brief of Mr. I.P. Kohli, Advocate for respondents.

Heard learned counsel for the parties.

Petitioners are contract employees engaged to discharge duty as Mali in Ranipur Unit of BHEL, Haridwar. According to them, they are being paid meagre amount as wages, whereas Malis appointed in the permanent establishment of the same unit, are being paid many times more amount as salary.

Petitioners had earlier filed Writ Petition (S/S) No. 1464 of 2018 claiming equal salary in terms of Rule 25 (2) (v) (a) of the Contract Labour (Regulation and Abolition) Central Rules, 1971. A Coordinate Bench of this Court vide order dated 22.02.2019 had referred the matter to Deputy Chief Labour Commissioner, to decide as to whether the nature and type of work performed by petitioners is the same, as that of the workers, who are serving in the permanent establishment of BHEL.

In terms of the order passed by Coordinate Bench of this Court, Deputy Chief Labour Commissioner (Central) has passed an order on 28.10.2020, in which he has concluded that duties performed by petitioners are the same, as that of a Mali appointed in permanent establishment. The order passed by Deputy Chief Labour Commissioner has been affirmed by this Court in Writ Petition (M/S) No. 368 of 2021 & Writ Petition (M/S) No. 369 of 2021.

In this writ petition, petitioners have sought the following relief:-

“I. To issue a writ, order or direction in the nature of mandamus commanding the respondents to pay the wages to the petitioners on the same rates, which have been prescribed by the respondents to the “Mali” in the establishment of the respondents or which are being paid to the regular Mali in the establishment of the respondents. The respondents may further be directed to provide same facilities of working hours, leave and all other service



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benefits like gratuity etc which are being provided to the regular Malis, in the establishment of the respondents.”

Mr. V.K. Kohli, learned Senior Counsel appearing for BHEL has raised preliminary objection that the relief claimed by petitioners, cannot be granted in a writ petition. He submits that for enforcement of their right, if any, available under Contract Labour (Regulation and Abolition) Act, 1970 and the Rules framed thereunder, petitioners can approach the forum available under Industrial Disputes Act, 1947. This Court finds substance in the contention raised by learned Senior Counsel appearing for respondents.

Since petitioners have a statutory remedy under Section 33C of Industrial Disputes Act, 1947, therefore, this Court declines to entertain the writ petition.

Accordingly, writ petition is disposed of with liberty to petitioners to approach the said forum.

3. In the connected Special Appeal No. 358 of 2023, the same appellants have challenged the order dated 16.08.2022 passed by the learned Single Judge in Writ Petition (M/S) No. 368 of 2021 titled as '*Bharat Heavy Electricals Limited & another vs. Sh. Anil and others*' and since it was filed as an afterthought, along with the present appeal, it is delayed by 394 days. Likewise, connected Special Appeal No. 353 of 2023 is against the same judgment and order of the learned Single Judge dated 16.08.2022 in Writ Petition (M/S) No. 369 of 2021 and the said appeal is also delayed by 394 days.

4. Interestingly, the appellants have simultaneously preferred one more Special Appeal



bearing No. 356 of 2023 assailing the order dated 22.02.2019 passed by the learned Single Judge in Writ Petition (S/S) No. 1464 of 2018 titled as '*Rajendra Singh and others vs. Bharat Heavy Electricals Ltd., Ranipur, Haridwar & others*'. The said Appeal is beyond limitation by 953 days.

5. It is not disputed before us that in the earlier rounds of litigation, the controversy between the writ petitioners, who are contract labourers and the appellants (for short hereinafter referred to as 'BHEL') was referred for decision by the Deputy Chief Labour Commissioner, in terms of Rule 25(2)(v)(a) of the Contract Labour (Regulation and Abolition) Central Rules, 1971 on basis of suggestions made by the counsel for the BHEL to examine as to whether the nature of work of the writ petitioners was the same as their counterparts, who were directly engaged by BHEL and working in its permanent establishment. Pursuant thereto, the Deputy Chief Labour Commissioner (Central), Dehradun decided the issue by order dated 28.10.2020 and concluded that the works done by the writ petitioners are same as that by their counterparts working in the permanent establishment. The order passed by the Deputy Chief Labour Commissioner was



subjected to challenge by the BHEL in WPMS No. 368 of 2021 and WPMS No.369 of 2021 but the challenge was rejected by this Court by order dated 16.08.2022. At that stage, the appellants did not challenge the order of this Court dated 16.08.2022. The writ petitioners, thereafter, preferred the Writ Petition seeking a writ of mandamus commanding the appellants to pay additional wages in terms of the decision of the Deputy Chief Labour Commissioner (Central) dated 28.10.2020. In the said writ petition, a preliminary objection was raised by learned counsel appearing on behalf of the BHEL to the maintainability of the writ petition. It was contended that the writ petitioners had alternative remedy to seek enforcement of their rights under the Contract Labour (Regulation and Abolition) Act, 1970 by approaching the appropriate authority under Industrial Disputes Act, 1947. The learned Single Judge, only on basis of the objection of BHEL regarding availability of alternative remedy, declined to entertain the writ petition and relegated the petitioners to the remedy under Section 33C of the Industrial Disputes Act, 1947.

6. The present appeal has been filed contending that the provisions of the Contract Labour (Regulation



and Abolition) Act, 1970 would not apply against the principal employer, namely, the BHEL and therefore, the order of the learned Single Judge is erroneous.

7. We are not inclined to examine the said aspect, as the petitioners were relegated to the alternative remedy only on the objection of the appellants (BHEL).

8. In case, there is any inherent lack of jurisdiction with the authority, before whom proceedings may have been filed in pursuance of the liberty granted to the petitioners by the learned Single Judge, it is always open to the appellants (BHEL) to raise the issue before the said authority.

9. It is noteworthy that the appellants have already challenged the proceedings pending before the Labour Court under Section 33C of the Industrial Disputes Act, 1947 by filing Writ Petition No. 2234 of 2024 and it is stated to be pending.

10. Having regard to the above facts, we decline to entertain the instant appeal. It is accordingly dismissed, without affecting the right of the appellants



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to raise any jurisdictional plea as may be available to the appellants before the appropriate forum.

11. Pending application(s), if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 16.02.2026

Kaushal