

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.588 OF 2016**

Indian Oil Corporation

...Petitioner.

Versus

Petroleum Employees Union  
and another

...Respondents.

....

Mr. K.P. Anilkumar for the Petitioner.

Mr. Ramesh D. Bhat Respondent No.1

....

**CORAM : NARESH H. PATIL AND  
Z.A. HAQ, JJ.**

**9<sup>th</sup> AUGUST, 2017.**

**P.C.:**

1. Heard Mr. K.P. Anilkumar, Advocate for the Petitioner and Shri Ramesh Bhat, Advocate for the Respondent No.1.
2. The Petitioner-employer takes exception to the decision of the Regional Labour Commissioner (Central), Mumbai dated 29<sup>th</sup> September 2015, by which it is held that the workmen (members of the Respondent No.1 Union) in question who had been working on contract basis are entitled for the benefits as per the long term settlement dated 29<sup>th</sup> July, 2010, with effect from 1<sup>st</sup> January, 2010.

3. The issue whether the contract workmen working in the plant in question were entitled for the same pay scale as the regular sweepers, was considered by the Regional Labour Commissioner earlier and by the decision dated 12<sup>th</sup> August, 1998, after visiting the plant and conducting an enquiry, he found that the contract workmen in question were performing the duties along with regular workmen, that at that time no sweeper was engaged on a regular basis, however, the contract workmen who were working as sweepers were entitled for the grades (scale of pay) to be made available to the regular sweepers. Accordingly, the Regional Labour Commissioner had issued the following directions:

*“There is no doubt that at present no sweeper is engaged on regular basis, but the grades (scale of pay) in which the regular sweepers were working earlier is still available in their long term settlement. Hence inclined to allow these contract labour in question 1/30th of the scale of pay minimum i.e. Basic + DA per day w.e.f. 1.4.1998 which is available for regular sweepers in the long term settlements. This meets the ends of justice.”*

4. The Respondent No.2 Union had approached this Court by filing Writ Petition No.115 of 2013 seeking certain directions against the Dy. Chief Regional Labour Commissioner (Central) and the employer. That Petition was disposed of by the order dated

6<sup>th</sup> February, 2015 with the following observations/directions:

*“[I] The dispute regarding the type of work performed by the contract workmen in question and the scale they can be fitted and whether they are entitled for the benefit of long term settlement dated 29<sup>th</sup> July 2010 effective from 1<sup>st</sup> January 2010, is referred to the the Regional Labour Commissioner (Central) Western Region, Mumbai*

*[II] Parties are directed to appear before the Regional Labour Commissioner (Central) Western Region, Mumbai on 16<sup>th</sup> February 2015.*

*[III] The Regional Labour Commissioner (Central) Western Region, Mumbai shall decide the reference and pass appropriate orders after giving an opportunity of hearing to all concerned, as expeditiously as possible and at any rate within the period of three months from 16<sup>th</sup> February 2015.”*

5. The Parties appeared before the Regional Labour Commissioner and after hearing the parties, the Regional Labour Commissioner has taken the decision. Being aggrieved by the decision of the Regional Labour Commissioner, the employer has filed this Petition.

6. The contention of the Petitioner employer is that, the impugned decision is taken by the Regional Labour Commissioner without visiting the spot and without conducting an enquiry and he has wrongly upheld the claim of the contract workmen overlooking the fact that there are no regular workmen working in

the posts in which the contract workmen in question are working and therefore there is no justification for granting the contract workmen in question the benefit of the long term settlement dated 29<sup>th</sup> July, 2010.

The other challenge to the impugned decision is that, the Labour Commissioner while exercising the jurisdiction under Rule 25 of the Contract Labour (Regulation and Abolition) Central Rules, 1971, has no powers/authority to direct the employer to make available a particular pay scale to the workmen. It is submitted that while exercising the powers/authority under Rule 25 of the Contract Labour (Regulation and Abolition) Central Rules, the Regional Labour Commissioner can only determine the entitlement of the workmen in question and cannot issue further directions.

7. The learned Advocate for the Respondent No.1 Union has supported the impugned decision and has pointed out that in the facts of the case, it was not necessary for the Regional Labour Commissioner to visit the establishment and conduct an enquiry where the contract workmen in question are doing the work as admittedly no sweeper is working in the establishment on regular basis and the benefit of the long term settlement dated 29<sup>th</sup> July,

2010 is given to the contract workmen in question as the same workmen who had been given the benefit by the decision taken by the Regional Labour Commissioner on 12<sup>th</sup> August, 1998 continue in the establishment in question.

8. After hearing the learned Advocates for the respective parties, examining the documents placed on record of the Petition and going through the decision of the Regional Labour Commissioner dated 12<sup>th</sup> August, 1998 and 29<sup>th</sup> September, 2015 (the impugned decision), we find that there is no merit in the submissions made on behalf of the Petitioner-employer. The Regional Labour Commissioner has considered all the relevant aspects and finding that the workmen whose entitlement is considered by the decision dated 12<sup>th</sup> August, 1998 continue to work and have not been given the benefit of the long term settlement dated 29<sup>th</sup> July, 2010, has upheld the claim of the workmen in question as per the impugned decision. As the entitlement of the workmen in question was upheld after visiting the plant in question and after conducting enquiry and the same had been accepted and implemented by the employer, and as admittedly the same workmen continue to work in the

establishment of the Petitioner-employer, the fact that the Regional Labour Commissioner has not visited the establishment in question does not make any difference and does not affect the legality of the impugned decision.

The other contention raised on behalf of the Petitioner-employer, relying on the provisions of Rule 25 of the Contract Labour (Regulation and Abolition) Central Rules, 1971 also has no merit. The provisions of Rule 25(v)(a)(b) clearly lay down that, the Deputy Chief Regional Labour Commissioner can determine the entitlement of the workmen in question and consequentially in our view he can direct the employer to make available to the workmen the benefits determined by him.

9. The challenges raised by the Petitioner-employer cannot be accepted. The Writ Petition is dismissed. In the circumstances, parties to bear their own costs.

**(Z.A. HAQ, J)**

**(NARESH H. PATIL, J)**