

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Letters Patent Appeal No. 1080 of 2018 (O&M)

Date of Decision: 30.05.2019

Food Corporation of India and others

.....Appellants

versus

Food Corporation of India Palledar Union, Food Storage Depot, Khanauri
and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. JS Puri, Advocate, for the appellants.
Mr. J.S.Manipur, Advocate, for the respondents.

KRISHNA MURARI, CHIEF JUSTICE

Food Corporation of India has filed the instant intra-court appeal invoking Clause X of the Letters Patent against the judgment and order dated 25.07.2017 passed by the learned Single Judge whereby the writ petition filed by the respondent-Food Corporation of India Palledar Union, Food Storage Depot, Khanauri, District Sangrur, has since been allowed.

2. The said writ petition was filed by respondent No.1 herein through its authorized representative seeking the following main reliefs:-

- ii) Writ of mandamus directing the respondents to include the name of the petitioners' members, who are left out arbitrarily with effect from the date when the other members were taken under TMC system.
- iii) Any other appropriate writ, order or direction, be also issued which this Hon'ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case and to which the petitioner is found entitled in law just and equity.

3. Facts in brief necessary for adjudication of the controversy at hands can be recapitulated as under:-

Respondent-petitioner is a union of the handling workers carrying out the work of loading/unloading, stacking/destacking, restacking, standardization, weighment, sweeping and cleaning in the godowns and depots of Food Storage Depot at Khanouri, District Sangrur. There are 115 handling workers as members of the union. They have been working as contract labourers since the year 1988.

4. The Central Government exercising powers conferred by Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 in consultation with the Central Advisory Contract Labour Board vide notification dated 23.04.2010 prohibited the employment of contract labour in the godown and depots of Food Corporation of India specified in the schedule attached to the notification. The name of the petitioner's Depot finds place at Sr. No. 39 of the schedule.

5. After issuance of the notification dated 23.04.2010 regarding abolishing the system of contract labour, the Regional General Manager issued a communication dated 25/26.11.2010 addressed to the Area Manager advising to prepare the seniority list of ex-contract workers working at various depots including Depot at Khanauri. The communication further required constitution of a three members committee consisting of Area Manager, Manager (D) and Manager (A/c's) for identifying and verifying the workers and their particulars. A further requirement was to prepare the seniority list of the workers selected after identification and physical fitness for each FCI owned depot separately of handling labour and ancillary labour on the basis of actual number of working days by each labour during the last three years in concerned depot with the contractor. The workers so identified

were to be inducted as Handling Labour and Ancillary Labour as per the assessment formula worked out by the Head Quarter. The three members committee prepared a list in which the name of three petitioners through whom the petition was filed was excluded. A legal notice was issued on behalf of the petitioner's union to which reply dated 07.04.2012 and 12.04.2012 were given by the Food Corporation of India denying the claim.

6. The said two communications were put to challenge by filing the writ petition. A further relief of mandamus was claimed to command the respondents to include the name of the petitioner's union in the seniority list prepared by the three members' committee.

7. Learned Single Judge vide order dated 25.07.2017 allowed the writ petition against which a Letters Patent Appeal No. 2180 of 2017 was preferred which was dismissed vide order dated 25.01.2018 with liberty to the appellant-corporation to take recourse to their remedies in accordance with law.

8. In pursuance to the said order, the appellant filed a Review Application mainly on the ground that the notification dated 23.04.2010 has been withdrawn on 06.07.2016 and thus the matter requires re-examination. The Review Application was dismissed by the learned Single Judge vide order dated 16.04.2018 on the ground that when the order under review was passed, the notification dated 06.07.2016 was not in existence and therefore, the same cannot be made basis for reviewing the order. After dismissal of the review application, the instant Letters Patent Appeal has been preferred challenging the judgment and order dated 25.07.2017 of the learned Single Judge.

9. The proceedings of the writ petition were contested by the appellant-corporation by filing written statement setting up a case that since the respondents-petitioners were not working in the Food Storage Depot, Khanouri, rather, their services were being utilized for open godowns which do not fall under the Food Storage Depots and hence, their names were not considered by the three members committee pursuant to the notification dated 23.04.2010.

10. Learned Single Judge relying upon the notification dated 23.04.2010 came to the conclusion that it was in respect of '*godowns and depots of Food Corporation of India as specified in the schedule*'. The notification does not draw any distinction between the close or open godowns and the reason of rejection of the claim of the respondents-petitioners that since they were working in the hired godowns, as such, were not entitled for consideration, is not tenable and contrary to the notification dated 23.04.2010.

11. It has not been disputed that the respondents-petitioners were working in the godowns in question since 1988. The only reason for which their claim has been rejected is that they were engaged in hired godowns or in other words 'open godowns'.

12. We have carefully gone through the notification dated 23.04.2010 (Annexure P-2 to the writ petition) and it only speaks of, as noticed by the learned Single Judge, "*godowns and depots of Food Corporation of India as specified in the schedule*". It may be relevant to extract the relevant part of the notification which reads as under:-

“NOTIFICATION*New Delhi, the 23rd April, 2010.*

S.O. 947 (E)- In exercise of the powers conferred under sub section (1) of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), the Central Government, after consultation with the Central Advisory Contract Labour Board and having regard to the conditions of work and benefits provided for the contract labour and other relevant factors enumerated in sub section (2) of the said section, hereby prohibits the employment of, contract labour in the works of loading, unloading, stacking, destacking, restacking, standardization, weighment, sweeping and cleaning in the godowns and depots of the Food Corporation of India as specified in the Schedule given below:-.....”

13. A perusal of the above clearly goes to show that the notification has not drawn any distinction between godowns and open godowns on hire and it only speaks of godowns and depots. Thus even if the respondents-petitioners were working in the open godowns, it would be included in the term godowns used in the notification and thus their claim is not liable to be rejected on the ground that they were not working in the close godowns.

14. In view of the above facts and discussion, the view taken by the learned Single Judge cannot be faulted with so as to cause any interference in the impugned order. The appeal is thus devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

30.05.2019

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No