

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7170 of 2012

Paradeep Phosphates Ltd.

....

Petitioner

Mr. Narendra Kishore Mishra, Senior Advocate

-versus-

***Paradeep Phosphates Mazdoor Union
and another***

...

Opposite Parties

Mr. Shibasish Mishra, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK**

**ORDER
27.07.2022**

Order No.

11. 1. A very short question arises for determination in the present writ petition by the Paradeep Phosphates Limited (PPL) from an order dated 2nd April 2012 of the Industrial Tribunal, Bhubaneswar (Tribunal) framing issues in I.D. Case No.27 of 2001.
2. The background to the present petition is that by an order dated 13th December 2001, the Labour and Employment Department, Government of Odisha referred the following dispute to the Tribunal for adjudication:

“Whether the workers numbering 1626 engaged by the contract Agencies in different operations like Bagging Plant D.A.P-P.A.P-S.T.P. Instrumentation-S.A.P.-Fire and Safety Mechanical etc. (as per list to be supplied by the D.L.O. Jagatsinghpur) but who are working in the Paradeep Phosphates Ltd. Paradeep, can legally claim to the employees of Management of PPL or not. If not whether they are

entitled for wage and other benefits at par with the regular employees or not doing same and similar work or not?”

3. After the statement of claim was filed by the Workers Union and the written statement was filed by the Management in response thereto, by the impugned order dated 2nd April 2012, the Tribunal framed the following issues in I.D. Case No.27 of 2001:

- (i) Whether the Tribunal can adjudicate the dispute under reference in the absence of a reference made by the Central Government?
- (ii) Are the Contractors under whom the disputant workmen have been working, necessary parties?
- (iii) Whether the inter-position of Contractors by the Management of the First Party is a mere ruse or camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefits thereunder?
- (iv) Whether the disputant workmen are to be treated as employees of the Principal Employer, i.e., the First Party, and, therefore, entitled to get their services regularized under the Principal Employer?
- (v) If not, whether the disputant workmen are entitled to get wages and other benefits at par with the regular employees of the Principal Employer on the principles of “same work, same pay”?
- (vi) What relief ?

4. Mr. N.K. Mishra, learned Senior Advocate appearing for the Petitioner raises an objection as far as Issue No.(iv) above is concerned to the extent that it envisages a situation where if the Workmen are to be treated as employees of PPL, whether they would be “entitled to get their services regularized” under PPL?

5. Mr. Mishra points out that the original term of reference had made no mention of any issue concerning 'regularization' of the Workmen and that too under PPL.

6. Mr. Shibasish Mishra, learned counsel appearing for the Workers Union is unable to dispute the fact that the reference as made to the Tribunal makes no mention of any issue concerning regularizing of the services of the Workmen under PPL. The first part of the reference itself envisages that either of two situations, one the Workmen being engaged by the Contractors or the Workmen actually being employees of PPL. Consequently, the Issue No.(iv) as framed by the Tribunal by its order dated 2nd April 2012 is modified and will read as under:

“(iv) Whether the disputant Workmen are to be treated as employees of the Principal Employer, i.e., the First Party?”

7. With the above modification, the writ petition is disposed of. The interim order passed earlier in the present petition stands vacated.

8. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge