

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 1828 of 2015

Brahmananda Swain & Others

.....

Petitioners

Mr. S.K. Rath, Advocate

Vs.

Union of India & Others

.....

Opposite parties

Mr. P.K. Parhi, A.S.G.I.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

18.04.2022

Order No.

20.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Rath, learned counsel for the petitioners and Mr. P.K. Parhi, learned Asst. Solicitor General of India for Union of India.

3. The petitioners have filed this writ petition seeking to quash the order dated 12.01.2015 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00992 of 2014, by which the tribunal has come to a conclusion that the grievance, as raised by the petitioners in the original application, is not covered under Section 19 of the A.T. Act, 1985. Therefore, the tribunal, by holding that the policy decision regarding the outsourcing of maintenance of archaeological garden is now the subject matter of conciliation proceedings with the Assistant Labour Commissioner (Central), did not feel inclined to interfere in the matter. The tribunal, by observing that the petitioners have failed to establish any cause of action as to redressal of their grievances, rejected the original application filed by the petitioners.

4. Having heard learned counsel for the petitioners and after

going through the records, this Court finds that the petitioners, who are 20 in number, had approached the tribunal with a grievance that though they have been working continuously as Casual Workmen under the administrative control of Deputy Superintendent, Horticulturist, the authorities in the Department are going to engage outsiders through a service provider by order dated 02.09.2014. Thereby, there is denial of employment to them, which amounts to unfair Labour Practice under Section 33 of Industrial Disputes Act. As it appears, against the decision of the authority to engage the workers on outsourcing basis, the petitioners as well as the Union complained the matter to the Assistant Labour Commissioner (Central), who issued notice to opposite party no.4 calling upon him for conciliation. It was alleged therein that the appointment of the workers through a contractor, without the registration of the principal employer, is violative of the provisions of Contract Labour (Regulation & Abolition) Act, 1970 and the rules framed thereunder. But opposite party no.4 informed the President of the ASI Horticulture Workers' Union, vide letter dated 02.09.2014, that the decision of the Government of India is to maintain the archaeological gardens through outsourcing agency due to shortage of adequate regular garden attendants, and such outsourcing is through a regular practice and nothing new has been introduced for the financial year 2014-15. It was also informed that as per the provisions of Industrial Disputes Act, the action of the authority cannot be violative. Therefore, the Assistant Labour Commissioner wrote a letter on 12.05.2014 to the opposite party no.4 that he had failed to attend the reconciliation proceedings on 09.05.2014 and was

further directed to attend the reconciliation proceedings on 23.05.2014. Since the matter is subjudice before the Assistant Labour Commissioner, the Central Administrative Tribunal has rightly observed that relief sought by the petitioners cannot be admissible to them. Therefore, this Court is of the considered view that the tribunal has not committed any error in passing the order impugned dated 12.01.2015 in O.A. No.260/00992 of 2014 so as to cause interference of this Court.

5. In view of such position, this Court is not inclined to entertain this writ petition. However, if any cause of action still survives, the petitioners are at liberty to agitate their grievance before the appropriate forum in accordance with law, if they are so advised.

6. With liberty aforesaid, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Sukanta