

07.12.2023
Court No. 13
Item No. 121
AP

WPA 11569 of 2021

**Cygnnet Industries Ltd. and Anr.
Vs.
The State of West Bengal and Ors.**

Mr. Soumya Majumder
Mr. Sandip Kundu

... For the Petitioners.

Ms. Senjuti Sengupta
Mr. R. Guhathakurta

... For the Respondent No.5.

1. The subject matter of the writ petition is a corrigendum dated 24th February, 2021 issued by the Deputy Secretary, Government of West Bengal to a reference dated 6th June, 2018 where the following issues were referred for adjudication to the Industrial Tribunal.

(i) Whether the termination of service by way of refusal of employment of Sri Rameswar Singh with effect from January 2012 by the management of M/s. Balaji Transport is justified?

(ii) What relief, if any, the workman is entitled?

2. After the Industrial Tribunal entered upon the reference, the employee/respondent No.5, applied before the State for correction of the reference.

3. It was contended that the conciliation proceedings preceding the reference were held among the writ petitioner, the alleged principal employer, and the immediate employer, M/s. Balaji Transport and the

respondent No.5, workman. The failure report of the conciliation, in terms of the practice of the State Government was never disclosed to any of the parties. However, the State Government in its wisdom chose only to refer to M/s. Balaji Transport as employer.

4. Admittedly, the workman was a driver/loader. The disputes started after the writ petitioner cancelled the gate pass of the workman.

5. The State Government then passed the impugned corrigendum dated 24th February, 2021 including the petitioner as employer.

6. From the facts available in the writ petition and annexures, it appears in no uncertain terms that the appropriate government did not find the writ petitioner involved in the dispute in any form and hence chose not to include its name in the reference as employer on 6th June, 2018.

7. By reason of the corrigendum dated 24th February, 2021 the State Government appears to have completely altered, changed the nature and character of the original reference and made a de novo reference. The same is not permitted in law. Admittedly, an employee cannot have two employers.

8. In those circumstances, this Court has no hesitation to modify the corrigendum dated 24th February,

2021, which was issued three years after the principal reference was made, to the extent that it excludes the writ petitioner as employer. The date of the termination of the workman/respondent No.5 in the corrigendum shall however remain as 31st January, 2012 and the reference shall proceed with only M/s. Balaji Transport as employer.

9. The Tribunal shall conclude the reference preferably within a period of six months from date.

10. With the aforesaid directions, the writ petition is allowed and disposed of.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)