

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:-

The Hon'ble Justice Lapita Banerji

WPA 16535 of 2006
With
CAN 1 of 2010 (Old CAN 451 of 2010)
CAN 2 of 2020
CAN 3 of 2020
CAN 4 of 2021
CAN 5 of 2021

Food Corporation of India
Vs.
Central Government Industrial Tribunal & Ors.

For the petitioner : Mr. Arunava Ghosh, Sr. Adv.
Mr. Kamal Kumar Chattopadhyay, Adv.

For the Respondent No. 2. : Mr. Shamik Chatterjee, Adv.
Mr. Amit Bikram Mahata, Adv.
Mr. Aditya Bikram Mahata, Adv.
Mr. Sahil Kabir, Adv.

Heard On : August 23rd, 2023.

Judgment On : August 23rd, 2023.

Lapita Banerji, J.:-

1. The writ petitioner, Food Corporation of India challenged an award passed by the Central Government Industrial Tribunal (CGIT) on April 6, 2006. The facts in brief are as follows:-

a. By an order dated January 15, 2001, the Central Government in the exercise of its power under Sections 10(1)(d) and Section 2A of the Industrial Disputes Act, 1947 referred the following disputes to the Tribunal:-

“Whether the action of the Management of Food Corporation of India and their Storing Agent Shri Tarapada Ghosh in denying employment of Shri Bhagirath Mahapatra and 253 others (as per list enclosed) or not giving them the retrenchment compensation is justified? If not, to what relief the concerned workmen are entitled?”

b. By the said award, the Presiding Officer held that the demand of the workmen represented by Chanditala Dankuni Food Corporation of India Storing Agents, Mutia Mazdoor Union/the respondent no. 2 with regard to the reinstatement of 254 employees was justified. They were entitled to be employed with effect from July 1, 1993. However, the Tribunal was of the opinion that the said 254 workmen were not entitled to get any “*back wages*” from July 1, 1993 till the date of the award on April 6, 2006 since the Union did not make any statement with regard to the fact whether the members of the Union were under any gainful employment during the said period.

c. In the present writ petition, FCI has *inter alia* prayed for cancelling and/or recalling of the order of reference dated January 15, 2001 and also cancelling and/or setting aside of the award dated April 6, 2006.

d. FCI challenged the said order of reference and the award, *inter alia*, on the ground that none of the 254 workmen were ever directly employed by the FCI. The respondent no. 2/Union was not a Union of FCI. The said 254 workmen were employed by the Storing Agent, one Tarapada Ghosh, if at all.

Therefore, no industrial dispute could exist between the said 254 workmen and the FCI nor could such purported dispute be referred to CGIT, for adjudication.

e. The primary contention of FCI/writ petitioner was that there was no letter of engagement/appointment that was brought on record showing the engagement/appointment of any of the 254 workmen by the FCI. Furthermore, no document was brought on record to show that any of the 254 workmen was ever paid directly by the FCI. Therefore, the evidence of the Secretary of the respondent no.2, Union/one Bhagirath Mahapatra (BM) regarding all the documents being destroyed due to the cyclone in Odissa should not have been relied upon by the Tribunal to come to the finding that the said 254 workmen were engaged by the FCI.

f. There was no evidence on record to show that up to 1990, the said 254 workmen were paid by the Storing Agent, Tarapada Ghosh and thereafter from 1991 till 1993, they were paid by the District Manager, FCI directly.

g. The Tribunal failed to appreciate that neither the respondent no. 2/Union could establish the existence of a contract, employer/employee relationship between the said 254 workmen and the FCI nor could it be established that the said workmen rendered 240 days of continuous service to the FCI, in

one calendar year as stipulated under Section 25B of the 1947 Act.

h. Since the workmen failed to satisfy the conditions precedent for getting retrenchment compensation, the reference could not have been made for the said purpose. The Tribunal erroneously based its findings on the evidence of the Secretary of the respondent no. 2. Despite the fact that no documentary evidence could be produced by the respondent no. 2/Union, the Tribunal erroneously proceeded to rely on the oral evidence. The Secretary of the respondent no. 2/Union one Bhagarathi Mahapatra (BM) deposed that he used to work at the Chanditala, Dankuni Siding of the FCI for 20 to 21 years. The nature of the work was perennial. He was engaged in loading/unloading of the foodgrains. FCI had its own godown in Dankuni and from 1993, the members of the Union were asked to cease work as there was no work left at the said Siding. No notice was given before such retrenchment/termination. He further deposed that the work of 254 workmen were supervised by an Inspector of FCI by the name of Abani Bhattacharjee (AB). The said AB retired from service at the time of the deposition, but used to work there when the members of the Union were discharging their duties.

i. AB was also examined on behalf of the claimant/Union. He deposed that he worked on deputation at

FCI from September 1, 1981 till March 31, 1992. He worked at the Dankuni Siding of FCI from 1986 till 1992. BM used to work there along with many workmen and AB saw them work from 1986 till 1992. He supervised their work of loading and unloading. BM was the Labour Sardar at Dankuni Siding.

j. In cross-examination, AB deposed that he maintained the attendance of the 254 workmen as there was no lower division work posted at Dankuni by FCI. Therefore, being Assistant Grade-III, he performed the clerical that work along with another person working as Assistant Grade-III.

k. AB learnt from the workmen whose register he maintained that BM was running the Union which had 254 members. AB deposed that Tarapada Ghosh was the Storing Agent of FCI and he was unaware as to who made payment to 254 persons. AB deposed that he was unaware as to whether the said 254 persons were engaged by the FCI even though he saw them working at the FCI, Dankuni Siding. He also deposed that he had issued some Certificates regarding the work of BM though he did not recollect when such Certificates were given. Such Certificates were given by him, on his own.

l. The claimant/Union examined a workman by the name one Ananda Chandra Jana (AJ), in support of their claim. He deposed that BM was their Secretary and was engaged in the work of loading and unloading. The members of the Union were

regular employees and worked till 1993. The salary was paid by FCI. He knew AB who was the Inspector of FCI and he worked under the said Inspector.

m. As opposed to the three witnesses produced by the claimant/Union, FCI only produced one witness, by the name of Soumendra Kumar Das (SD), who was posted as the Assistant Manager (General) at the office of the District Manager, Hooghly at Chinsurah since October 8, 1997. FCI did not produce any witness who had personal knowledge of the workings at Dankuni Siding at the relevant time.

n. He deposed that the dispute related to the year of 1990 and his knowledge is derived from the documents submitted on behalf of the management. It was made clear that he did not want to depose anything further than what was already contained in the documents.

o. Upon analysis of the documents, the Industrial Adjudicator came to the finding that FCI failed to deny the liability of the 254 workmen being their employees till 1993.

p. The Industrial Adjudicator also relied on three judgments being **Hussainbhai vs. The Alath Factory Tezhilali Union & Ors.** reported in AIR, 1978 SC 1410, **Mohan Lal vs. The Management of M/s. Bharat Electronics Ltd.** reported in 1981 Lab. InC., 806 and **Olia Tellia & Ors. vs. Bombay**

Municipal Corporation & Ors. reported in 1985 (3) SCC 545, for coming to his findings.

2. Mr. Ghosh, learned Senior counsel appearing on behalf of the writ petitioner/FCI submits that the issue under reference was not appreciated by the Industrial Adjudicator and he proceeded to decide the reference under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 whereas the issue that was referred to him was the question of reinstatement /retrenchment compensation under the Industrial Disputes Act, 1947. Mis-appreciating such issue, the Industrial Adjudicator proceeded on the premise that the agreement between the Storing Agent Tarapada Ghosh (TG) and FCI was a *sham* agreement and a paper arrangement *camouflaging* the actual employer/employee relationship between the FCI and the members of the workmen Union. Therefore, the Industrial Adjudicator acted wholly without jurisdiction. The said Tarapada Ghosh was a contractual employee of the FCI who was paid on commission basis. How the said Tarapada Ghosh paid his workers was of no concern to the FCI. How many workmen were engaged by Tarapada Ghosh was also of no concern to the FCI. FCI had no knowledge about the number of workmen maintained by the said Tarapada Ghosh and cannot be saddled with the liability of reinstatement of 254 members of the respondent no.

2/Union, who were not the workmen of FCI, in the first place, putting huge liability on the public exchequer. There is no iota of evidence showing that the said 254 employees were workmen of the FCI.

3. Furthermore, he strenuously contended that the respondent no. 2/Union could not substantiate their claim by either documentary or oral evidence.

4. Mr. Chattopadhyay also appearing on behalf of the FCI draws the attention of this Court to an order passed by an Hon'ble Coordinate Bench of this Court on May 23, 2003 and the judgment and order passed by the Hon'ble Division Bench passed on July 23, 2008. He submits that it has been categorically held in the aforesaid orders that Tarapada Ghosh was only engaged as a commission Agent by the FCI. The said Tarapada Ghosh as a statutory Agent of FCI engaged some workers for the purpose of loading and unloading of goods of FCI at his own godown and/or at Railway Siding. FCI never engaged the petitioners for such service. Therefore, FCI had no legal responsibility or duty to regularize the service of such petitioners. The said decisions were passed in respect of the workmen who were members of Chanditala Dankuni Food Corporation of India Shramik Kalyan Samity. Furthermore, it is contended that the statutory agency of Tarapada Ghosh was terminated on April 30, 1990 and, therefore, the respondent

no. 2 could not claim to have been engaged under Tarapada Ghosh after 1990 till 1992. The claim of respondent no. 2 to be in continuous engagement under Tarapada Ghosh till 1992 is, completely a fabricated one, incorrect and not supported by any corroborative evidence. The Division Bench in M.A.T. 1997 of 2003 held on July 23, 2008 that the petitioners in W.P. No. 11384 (W) of 2001 had no right to regularization or absorption.

5. Mr. Chatterjee, learned counsel appearing on behalf of the respondent no. 2/Union submits that the evidence given by the three (3) witnesses on behalf of the claimant before the Tribunal/respondent no. 2 in the writ petition, remained uncontroverted. He submits that no evidence at all, has been given on behalf of the FCI to counter the evidence given by the claimant, Union. Therefore, the Industrial Adjudicator was correct in reinstating the service of 254 employees with the FCI.

6. Considering the rival submissions of the parties and the materials placed on record, this Court finds that the order passed by the Coordinate Bench on May 23, 2000 was primarily on the issue of absorption/regularization of the service of the members of the petitioner, Union. In such a case, it was held that the said Union was not able to prove their case under Section 10 of the 1970 Act. Furthermore, the

Hon'ble Division Bench did not interfere in Appeal with the findings of the Coordinate Bench by relying on various judgments of the Hon'ble Supreme Court dealing with the issue of absorption of contract labour and regularization of the same. The Hon'ble Division Bench relied on the Apex Court's judgment reported in (2006) 4 SCC 1 (**State of Karnataka vs. Uma Devi & Ors.**) to come to such a finding.

7. On behalf of the FCI, a decision reported in (2019) 7 SCC 440 (**Director, Steel Authority of India Limited -Vs- Ispat Khadan Janta Mazdoor Union**) was cited. In the said case it was held that the contract labourers could not pray for automatic absorption under Section 10 of the 1970 Act and the impugned judgment of the High Court was not sustainable for the reason that the effect of prohibition notification under Section 10(1) of the 1970 Act was settled by the Constitution Bench of the Apex Court in (**SAIL -Vs- National Union Waterfront Workers**) reported in (2001) 7 SCC 1. The Tribunal was the fact finding authority and extensively considered the documentary and oral evidence which was placed on record for examining the relationship between the principle employer, contractor and the contract labour. The Tribunal came to the finding that the contract between the contractor and the contract labourers was not a sham and/or

a bogus agreement. Therefore, the workmen were not entitled to absorption in service by the principle employer.

8. The Apex Court held that the finding of fact after taking note of oral and documentary evidence as recorded by CGIT in the award should not be interfered with, in the absence of finding of such fact recorded being perverse or based on no evidence at all, even if two views were possible. Such finding of fact unless perverse or not based on any evidence at all cannot be interfered with by the High Court in the limited scope of judicial review under Articles 226/227 of the Constitution of India.

9. The view expressed by the Apex Court in “**SAIL’s**” decision in fact, aids the case of the Respondent No.2/Union.

10. The decision cited by Mr. Chattapadhyay reported in (2007) 5 SCC 755 (**U.P. Power Corporation Ltd. & Another –Vs- Bijli Mazdoor Sangh & Others**) also relates to the absorption and regularization keeping in mind the decision of (**Secretary, State of Karnataka –Vs- Umadevi (3)**) reported in (2006) 4 SCC 1.

11. Next the decision cited on behalf of FCI is reported in (2002) 4 SCC 609 (**Municipal Corporation of Greater Mumbai –Vs- K.V. Shramik Sangh & Others**). The said judgment also relates to absorption of the employees under the 1970 Act. In that case there was no adjudication of the fact by the Industrial Adjudicator and in a writ petition filed

before the High Court, the Writ Court took upon itself the responsibility of answering the said disputed questions of fact.

12. The fact that the employer did not comply with the provisions of the 1970 Act lead to the High Court in ordering absorption of 2000(Two Thousand) workmen by the Municipal Corporation of Greater Mumbai.

13. The Apex Court held that the conclusion whether the contract between the contractors and contract labours was a sham or camouflage cannot be arrived at as a matter of law due to non-compliance of the provisions of the 1970 Act. Such a finding must be recorded based on evidence, particularly when such facts were disputed by the principle employer. The evidence has to be recorded by an Industrial Adjudicator as laid down by various decisions of the Apex Court. The Apex Court was of the view that the material relied on by the High Court could not be a foundation or basis to come to the finding that the labour contract was a sham, a camouflage or a device to deny the statutory benefits to the workers. Following the Constitution Bench judgment in (2001) 7 SCC 1 (**SAIL -Vs- National Union Waterfront Workers**) it was held that the absorption of contract labourers cannot be automatic and it is not for the Court to give such directions. Appropriate Course has to be adopted as indicated in paragraph 125 of the Constitution Bench's Judgment of **SAIL** (supra).

14. This Court fails to see how the decision in **Greater Mumbai** (supra) aids the writ petitioner's case as the finding of fact has been recorded by the Industrial Adjudicator here, and there is no assertion that such finding of fact was based on no evidence at all.

15. Mr. Chatterjee, on behalf of the Respondent no. 2, Union refers to a decision reported in India Law Reports 1986 Karnataka, at page – 2579 (**FCI Loading & Unloading Workers Union –vs- Food Corporation of India**). A Coordinate Bench of this Hon'ble Court in the said judgment held that the provisions of Contract Labour (Regulation and Abolition) Act, 1970 does not override the provisions of the Industrial Disputes Act, 1947. The workmen of the petitioner Union were governed by the provisions of the Industrial Disputes (I.D.) Act, in respect of their dispute with the Corporation. The workmen in that case were retrenched without complying with the provisions of Section 25(F) of the I.D. Act. It was clearly held that in the event the Corporation intended to retrench the workmen, the statutory requirements under Section 25(N) and (F) of the I.D. Act should have been complied with.

16. This Court is of the view that the judgment of the Coordinate Bench aids the Respondent No. 2, Union regarding their case for retrenchment compensation under the I.D. Act.

17. Next, he refers to a judgment and order passed in Civil Appeal No. 4152 of 2023 by the Hon'ble Supreme Court of India **(Their Workmen through the Joint Secretary (Welfare), Food Corporation of India Executive Staff Union -vs- Employer in relation to the Management of the Food Corporation of India & Anr.)**. In that case it was held that the workmen were retrenched illegally whereas similarly situated people were regularized by the Management of Food Corporation of India (FCI). The Hon'ble Apex Court held that the Tribunal committed no error in holding that the retrenchment of the casual workers being void, without giving notice or retrenchment compensation. The Tribunal also directed that the service of such workmen should be regularized relying on a previous order passed by the Hon'ble Jharkhand High Court.

18. The Apex Court held that even though an order of regularization should not have been passed by the Tribunal as held by the Learned Single Bench, the Learned Single Bench chose not to interfere with the service of such workmen due to the long passage of time. The Management of FCI were not required to regularize the service of such workmen pursuant to the interim order passed by the High Court. However, having done so, out of their own volition, it would be harsh to reverse the order of such regularization. The decision of the

Hon'ble Division Bench setting aside the order of regularization was set aside by the Hon'ble Apex Court.

19. This Court finds that the issue of regularization was not referred to before the CGIT. The issue was whether the Management of FCI and their storing agent acted illegally by not giving retrenchment compensation to the Respondent No.2, Union and to what reliefs the workmen of the Union were entitled to.

20. Next he relies on the Division Bench judgment of this Hon'ble Court reported in 2022 SCC Online Cal 3038 **(Upendra Choudhury -vs- J.K. Industries Ltd. And Others)**. The question that fell for consideration was the extent to which a Writ Court could evaluate the correctness of an award passed by an Industrial Tribunal. In that case it was held that with regard to the finding of fact recorded by the Tribunal, a writ of certiorari can be issued only when the Tribunal erroneously admitted inadmissible evidence which influenced the main finding. When a finding of fact is based on no evidence, that would be recorded as an error of law, which can then be corrected by a writ of certiorari. However, a finding of fact recorded by the Tribunal based on insufficient or inadequate evidence cannot be challenged in proceedings through the issuance of a writ of certiorari.

21. In the present case this Court is of the view that the evidence was correctly read, analyzed and evaluated by the Ld. Judge even though it was mostly oral. The oral evidence on behalf of the Respondent No.2/Union could not be rebutted by the oral evidence given on behalf of the FCI or on the basis of any documentary evidence produced by the FCI.

22. Then he relies on the judgment reported in (1997) 9 SCC 377 (**Air India Statutory Corporation and Others –vs- United Labour Union and Others**). Since the said case primarily deals with Section 10 of the 1970 Act it does not merit much discussion. However, in paragraph 69 of the said judgment it has been recorded that even if absorption of an erstwhile contractual workman by the employer after abolition of contract labour system under Section 10 of the 1970 Act had been made, it was always open for an employer, in an appropriate case, if the excess working staff was found not to be required by him, to retrench them in accordance with the provisions of Industrial Disputes Act, 1947.

23. In the present case, the issue is not whether or not the workmen should have been absorbed as regular staff after abolition of contract labour under Section 10 of the 1970 Act. The issue was whether without following the provisions of the Industrial Disputes Act, 1947 the members of the Respondent No. 2, Union could have been retrenched. For deciding the

said issue it has to be first decided whether the petitioners rendered service directly under FCI from 1990 till 1993.

24. In a judgment reported in 2019 SCC Online Cal 4953 (**Steel Authority of India Limited -Vs- Workmen of Steel Authority of India Limited and Others**) passed by the Hon'ble Division Bench of this Court, it was held that the workmen were to be treated as workmen of the Management after the abolition of contract labour under Section 10 of the 1970 Act. Factually, the said case is different from the present case as the witness is before the Industrial Tribunal did not produce any document showing that work was assigned to the contractors. Despite having opportunity no documents were produced to show that the contract labourers performed work which were intermittent in nature. However, the workmen were able to produce all the wage slips to the satisfaction of the Court issued by an officer of the company. Therefore, it was held that the workmen were able to satisfy the Industrial Adjudicator and also the Hon'ble Coordinate Bench correctly appreciated the evidence. There was no error of law apparent on the face of the record in weighing evidence by the Ld. Judge/Industrial Adjudicator.

25. In the present case the writ petitioner has relied on a contract during the course of hearing between itself and the

storing agent (T.G.). The Respondent No. 2/Union was not able to produce any documentary evidence.

26. The decision of the Division Bench reported in 2005 (2) L.L.N.1020 (**West Bengal Power Development Corporation, Ltd. And Others -Vs- Asis Dey Chowdhury and Others**) is also on the question of the regularization of the Contract Labour (Regulation and Abolition) Act under Section 10 of the 1970 Act. Therefore, the same does not merit any further discussion.

27. In the present case, the issues under reference before the CGIT were whether the workmen under the Industrial Disputes Act, 1947 (a) were wrongfully terminated, (b) should be reinstated (c) should be given retrenchment compensation or (d) any other relief. The issue with regard to absorption and regularization of their service was never referred to the Tribunal. Therefore, the judgments and orders relied upon by FCI dealing with absorption and regularization of the workmen/employees under the 1970 Act are not germane to the present proceedings as the said prayer was not seriously pressed on behalf of Respondent no. 2. The contention here was that 254 members of the respondent no. 2/Union could not be illegally terminated/retrenched without appropriate compensation under the 1947 Act. Since no

compensation was paid, the termination was illegal and therefore they should be reinstated.

28. Furthermore, this Court finds that even though no documentary evidence could be produced by the claimant/Union before the Tribunal, there was oral evidence to show that the workmen worked under the instructions of one of the Inspectors (AB) of FCI. AB himself deposed that he maintained a register of such workmen working under BM. It is also not in dispute that AB was posted at Dankuni Siding from 1986 till his retirement in 1992.

29. The witness who was examined on behalf of the FCI had no personal knowledge as he was employed from 1997 onwards whereas the relevant period of dispute was up to 1993. It is beyond the comprehension of this Court why no person who had personal knowledge of the disputed issues was examined before the Tribunal on behalf of the FCI. The witness neither had any personal knowledge nor deposed anything in favour of FCI apart from relying upon the documents produced before the Tribunal.

30. When enquired by this Court about documents which were produced before the Tribunal, it was submitted on behalf of the FCI that apart from the judgments and orders of the Coordinate Bench and the Hon'ble Division Bench, no documents were produced in favour of FCI. As held earlier,

such judgments and orders are not germane to the adjudication of the issues in the present proceedings as not only the point of law that requires adjudication is different, but also the aforesaid judgments related to a different Union. Factually, whether members of that particular Union can be absorbed cannot in any way determine the rights of the members of the respondent no. 2/Union in the present proceedings.

31. By an order dated August 29, 2000, the Assistant Labour Commissioner (Central) recorded that the conciliation proceedings which were held in 2000 for amicable settlement, failed. It recorded that the management/FCI contended that the engagement of Storing Agents for handling of foodgrains have discontinued since 1992 and, therefore, the management had nothing to do with the dispute raised by the Union. Furthermore, it was submitted on behalf of the management that since a writ petition was pending by the Chanditala Dankuni Food Corporation of India Shramik Kalyan Samity on identical issue of absorption of the members of that Union who were employed by the Storing Agent (TG), therefore, the said issue was sub-judice and no conciliatory proceedings could be held with regard to the present dispute.

32. As discussed earlier, this Court is of the view that the present dispute relates to reinstatement under the 1947

Act and retrenchment compensation under the 1947 Act and does not relate to absorption or regularization under the 1970 Act. The claimant Union has not prayed to be paid the same benefits as a regular employee of FCI nor has prayed for the terms and conditions to be applicable to them as that of a regular employee of FCI. The claimant Union has sought to make out the case of illegal retrenchment without giving any compensation or notice of retrenchment under the 1947 Act. Since no retrenchment notice was given or no compensation was paid, it has prayed for reinstatement as per the provisions of the 1947 Act.

33. From the perusal of the written statement filed on behalf of the FCI before the learned Tribunal, it transpires that FCI has proceeded on an erroneous assumption that the claimant Union has sought for absorption and regularization under Section 10 of the 1970 Act. FCI has sought to put the case of the claimant, Union higher than that was prayed for in the statement of claim before the Tribunal. After placing the claim of the Union at a higher pedestal, FCI has sought to demolish the said claim.

34. Considering the pleading and the evidence that were before the learned Tribunal, this Court is of the view that it cannot come to the finding that no evidence at all was available before the Tribunal for passing of the Award. In

Judicial Review, under Article 226 of the Constitution of India, this Court cannot go into the question on sufficiency of evidence as long as there was some evidence available before the Tribunal to arrive at its finding. The Court only has to decide whether there was any perversity, arbitrariness or *mala fide* intention in the decision-making process of the Tribunal.

35. The learned Tribunal having analyzed the evidence of all the three witnesses given in favour of the Union/respondent no. 2 as opposed to the evidence given by the sole witness produced on behalf of the FCI, came to the finding that the Respondent No. 2 Union/Claimant has been able to establish that its members were working for FCI. Since the sole witness on behalf of the FCI did not give any oral evidence controverting the same, he was also not cross-examined by the claimant, Union.

36. Therefore, the learned Tribunal to the mind of this Court has not committed any error in coming to the finding that the claims of the respondent no. 2/Union remained uncontroverted since the same was not denied on behalf of the FCI.

37. The learned Tribunal had directed reinstatement with effect from July 1, 1993 in 2006. More than 17 years passed from the date of said Award till the date of this judgment. Therefore, this Court is of the view that no fruitful

purpose will be served by insisting upon the reinstatement as the nature of the job that was being performed by the members of the respondent no. 2/Union may have changed. There may be no further requirement for FCI to engage whether by itself or by any Storing Agent huge number of labourers for loading and unloading of goods at Railway Sidings and storing them at various godowns since it has been submitted that the Railway Wagons are now directly brought into the godowns where the foodgrains are unloaded. Many workmen may also have passed away or be so aged as not to be able to perform such physical work or crossed the age of superannuation.

38. However, this Court cannot be unmindful to the fact that the members of the respondent no. 1 Union were retrenched without any notice or retrenchment compensation.

39. On the basis of the submissions made by Mr. Chatterjee that a sum of Rs.275/- per day was paid to the members of the workmen Union at the time of unlawful retrenchment of their services, this Court is of the view that retrenchment compensation should be paid to the members of the said Union under Section 25F of the Industrial Disputes Act, 1947 taking into account such figure. Such payment shall be made upon producing of proper identification of the 254 members of the Union or their heirs/legal representatives

by way of producing their Aadhaar Card or Voter ID Card before the appropriate authority.

40. In the event, a formal claim is made by the Union before the appropriate authority within a period of two months from date upon stating that a sum of Rs.275/- per day was received by each of the members in 1993 and the identity of such members or their heirs can be verified by producing relevant documents, the FCI/writ petitioner no. 1 shall pay retrenchment compensation under Section 25F of the 1947 Act within a period of three months from the date of making such application.

41. With the directions aforesaid, **W.P.A. 16535 of 2006** is **disposed of**.

42. Accordingly, **CAN 1 of 2010 (Old CAN 451 of 2010), CAN 2 of 2020, CAN 3 of 2020, CAN 4 of 2021 and CAN 5 of 2021** are also **disposed of**.

43. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

44. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)

