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06.09.2023
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Ct 550

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20458 of 2023

Eastern Coalfields Limited
Vs.
Union of India & Ors.

Mr. Manik Das
... For the petitioner.

Mr. Ranjan Kumar Sinha
Mr. Jasojeet Mukherjee
.... For the respondent nos. 1 and 2.

Mr. Balaram Patra
Mr. Suvadip Bhattacharjee
... For the respondent no.3

1. Affidavit of service filed in Court today is taken on record.
2. At the very outset, it is noticed that the petitioner while challenging the order passed by the Central Government Industrial Tribunal – cum – Labour Court, Asansol, has made the said Tribunal a party respondent in the present application.
3. Mr. Das, learned advocate, however, submits that the said Tribunal has been wrongly arrayed as respondent and prays for leave to have its name deleted.
4. Upon hearing the learned advocates appearing for the respective parties, I am of the view that the name of the respondent no.2 should be deleted from the array of the respondents. Accordingly, let the name of the respondent no.2 be deleted from the array of respondents

in the cause title and the other respondents be renumbered. Let such correction be carried out by the advocate-on-record of the petitioner.

5. The present writ application has been filed, *inter alia*, challenging the order dated 6th July, 2023 passed by the Central Government Industrial Tribunal – cum – Labour Court, Asansol.

6. Mr. Das, learned advocate representing the petitioner by drawing attention of this Court to the reference dated 14th February, 2013 submits that the issue whether the action of the petitioner in altering the category of Dinesh Kurmi and 60 other employees from piece rated to time rated, by reducing their wages forms the subject matter of reference. The learned Tribunal by its order dated 6th July, 2023 while hearing out the aforesaid reference has called upon the management's witness to produce pay statements of all sixty one workmen, for assessment of the difference of wages. Although, a statement was produced by the management's witness, yet the learned Tribunal had directed production of a fresh statement of wages with effect from 20th October, 2010. By referring to the aforesaid order he contends that from the aforesaid order it would be apparent that the Tribunal has already concluded that the 61 workmen are getting less pay, although, the reference is yet to be adjudicated. This, according to Mr. Das, is not permissible.

7. He submits that the learned Tribunal had also exceeded its authority in directing management's witness to produce fresh statement notwithstanding the management's witness having already produced the statement. In the facts as stated above, he submits that the aforesaid order prejudicially affects the petitioner and the same should be set aside.

8. Mr. Sinha, learned advocate enters appearance on behalf of the respondent no.1. He submits that there is no irregularity on the part of the learned Tribunal in directing the management's witness to produce a fresh statement. He says that no case for interference has been made out.

9. Mr. Bhattacharjee, learned advocate representing the respondent no.3 since renumbered as the respondent no.2, submits that the direction issued by the learned Tribunal is in consonance with the provisions of Section 11(3)(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as the "said Act"). Since, the reference relates to the action of the Eastern Coalfields Limited in not protecting the wages of 61 workmen who were getting piece rated wages since 1973 and in unilaterally converting them to the time rated category, the learned Tribunal had directed production of pay statement for the aforesaid 61 workmen.

10. It is still further submitted that the petitioner is the custodian of the documents and, as such, to elucidate the truth, the aforesaid direction has been issued. There is no

irregularity committed by the learned Tribunal in directing production of the aforesaid statement.

11. Heard learned advocates appearing for the respective parties and considered the materials on record. In this case I find that by an order dated 14th February, 2013, the appropriate Government by taking note of the disputes between the parties and by framing the following issue had referred the disputes to the Central Government Industrial Tribunal – cum – Labour Court, Asansol, for adjudication.

The Schedule

“Whether the action of the management of Chottadih Project of M/s. ECL in not protecting the wages of Sh. Dinesh Kurmi and 60 others (list attached) who are getting PR wages since 1973 and thereby unilaterally converting their category from Piece Rate to Time Rate and thereby reducing their wages w.e.f. 20.10.2010 is justified? If not what relief the workers are entitled to and from which date?”.

12. Records reveal that when the management’s witness tendered his evidence, the learned Tribunal had directed him to produce a fresh pay statement of 61 workmen for assessment of difference of wages as received by them. The direction for production of the aforesaid statement, in my view, is necessary for the purpose of answering the reference referred to the learned Tribunal by the order dated 14th February, 2013 issued by the appropriate Government. The provision of Section 11(3)(b) of the said Act authorizes the Tribunal to issue necessary direction

for production of documents. Although, Mr. Das, has strenuously argued that by the aforesaid order, the learned Tribunal has already decided the issue, I am of the view, that no such decision is reflected from the order dated 6th July, 2023.

13. The reference is yet to be answered. Having regard to the same, I am of the view no interference at this stage is called for.

14. The writ petition is, accordingly, disposed of.

15. There shall, however, be no order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)