

Form J(1)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 2920 of 2022

**Siliguri Telecom Service Security Employees Union
Vs.
Union of India & Ors**

**For the Petitioner : Mr. Arup Kanti Poddar,
Mr. Ayan Poddar,
Mr. Subhasish Misra,
Ms. Poulomi Bhowmick.**

**For the U.O.I. : Mr. Sudipto Kumar Mazumdar,
Ld. D.S.G of India,
Mr. Sourab Kar,**

For the B.S.N.L : Mr. Rajib Mukherjee,

For the Respondent No.2 & 3 : Ratan Banik,

For Respondent No.4 : Debajit Kundu,

Heard & Judgment On : 2nd February, 2023.

(Bibek Chaudhuri, J.)

Siliguri Telecom Service Security Employees Union is a registered trade union of the contractual workers of BSNL, Siliguri.

This writ petition has been filed alleging deliberate inaction on the part of the respondents, especially, respondent Nos.2, 3 and 4 and praying for issuance of writ in the nature of mandamus commanding the respondents to pay due wages and/or arrear payment including bonus to the workmen. It is the allegation of the petitioner that as many as 257 members of contractual workers have been working under respondent Nos.3 and 4. In spite of their discharging duties they have not received arrear wages, salary and bonus etc by the respondents.

Learned Advocate for the petitioner draws my attention at the outset to the office memo dated 29th September, 2021. The said office memo states that some funds against invoices of wages of job contract workers would be allotted before Durga Puja festival. He then refers to Annexure P-4 which is the minutes of joint discussion held among the management of BSNL, Contractor M/s General Security and Information Service and the petitioner union over non-payment of monthly salary V.D.A and other benefits held on 18th May, 2022. In the said minute it was specifically held as hereunder:-

“in case the contractor fails to make payment of wages within the prescribed period or makes short payment, the then Principal Employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.”

It is alleged that in spite of such decision having been taken the contract workers are not paid salary and wages by the respondents.

Learned Advocate for the respondent No.2 BSNL, on the other hand submits that the dispute relating to non-payment of wages or salary and other benefits is not directly concerned between the parties. The contract workers were employed in BSNL by third party contractor. BSNL is under obligation to pay wages and salary of the contract labourers to the third party contractor who is under obligation to disburse the said amount amongst the workers. The dispute relating to non-payment of salary to the contractual workers is initially an industrial dispute and Central Government Industrial Tribunal has jurisdiction to adjudicate the dispute involved in the instant writ petition.

Therefore, it is submitted by him that writ petition is not maintainable.

Learned Advocate for the respondent No.3 and 4 submits a letter written by the General Manager Telecom, BSNL, Siliguri to the General Security and Information Service, third party contractor directing him to submit him all pending wage bills of job contract labourers deployed from his end by 14th January, 2023 to the office of the General Manager, BSNL, Siliguri for disbursement of all arrear pay failing which payment liability will be borne by the proprietor of General Security and Information Service. It is submitted by the learned Advocate for the

respondent Nos.3 and 4 that action has already been taken in this regard and salaries will be disbursed within a short period of time.

It is needless to say that non-payment of salary after execution of work by the employer violates the basic fundamental right enshrined under Article 21 of the Constitution. Since the General Manager Telecom, BSNL, Siliguri has already taken action for payment of wages and other benefits to the contract labourers working in BSNL, Siliguri. This Court is of the view that at present there is no such dispute regarding the liability of the BSNL in respect of payment of wages, salary and other financial benefits in favour of the contract labourers.

Accordingly, the instant writ petition is disposed of directing respondent Nos.3 and 4 to disburse the back wages, arrear salary and other benefits, if any, either to the contractor or in case of failure by the contractor directly to the contract labourers within four weeks from the date of this order.

This instant writ petition is accordingly disposed of on contest however, without any costs.

(Bibek Chaudhuri, J.)