

16.04.2024
Sl. No. 06.
D/L.
Mithun
Ct.No.23.

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 279 of 2024

**The Workmen represented
by the Haldia Dock Complex Berthing
Officers' Association & Anr.**

Vs.

**Haldia Dock Complex (concerned Authority and
their Management) & Ors.**

Mr. Debajyoti Basu,
Sk. Jayed Hossain,
Mr. Dibyendu Ghosh

..for the petitioners.

Mr. Ashok Kr. Jena

...for respondent No.1.

Mr. Subhash Ch. Sarkar

...for Union of India.

The petitioners are respectively the Berthing Officers Association of Haldia Dock Complex and its Secretary. The petitioners have assailed an order dated 30th August, 2023 passed in Miscellaneous Case No.03/2005 by the Presiding Officer, Central Government Industrial Tribunal, Kolkata. By the order impugned the Presiding Officer has held that since the said miscellaneous case is linked with the reference case No.42/03 and the result of the miscellaneous case is dependent on the result of the reference which is pending for final disposal, the miscellaneous case

was adjourned and directed to be placed after disposal of the reference case.

It is submitted by the petitioners that during the pendency of the reference case, the miscellaneous case was filed as the employer intended to change the conditions of service of the workmen during the pendency of the reference. The miscellaneous case was continuing independently from the reference case. In fact evidence in both the cases has been proceeded with according to the petitioners. The petitioners say that after so many years it was improper on the part of the Tribunal to take up the miscellaneous case after disposal of the reference case as directed by the order impugned. The said order, therefore, is required to be set aside and the main reference and the miscellaneous case should be directed to be proceeded with independently.

On behalf of Haldia Dock Complex it is submitted that the framing of the writ petition is incorrect. Haldia Dock Complex is not an independent entity but is a division under Syama Prasad Mookerjee Port, Kolkata. It is further submitted that even ignoring such defect, the writ petition is not maintainable.

The learned Advocate representing Haldia Dock Complex places a portion of an order dated 7th

October, 2021 passed in WPA 2008 of 2020 wherein it was submitted by the petitioners as follows:-

“It is submitted by the learned counsel appearing on behalf of the petitioner that as the Miscellaneous Application No.3 of 2005 is part and parcel of the reference case being No.42 of 2003, the said case be tagged with the reference case.”

By relying upon the aforesaid portion of the said order dated 7th October, 2021, Haldia Dock Complex says that it was the submission before this Court by the petitioners that the Miscellaneous Application No.3 of 2005 is part and parcel of the reference case No.42 of 2003 and the said case be tagged with the reference case. After this submission it does not suit in the mouth of the petitioners that the Tribunal has erred in law or have made any gross error either apparent on face of record or otherwise which requires interference in exercise of powers under Article 226 of the Constitution.

After hearing the parties and considering the materials on record, I find substance in the submissions made on behalf of the Haldia Dock Complex. It was the case of the petitioners before this Court in a previous writ petition that the reference and the miscellaneous case are linked and, as such, should

be tagged. The Tribunal, therefore, has not erred in any manner whatsoever or have acted with material irregularity.

In the aforesaid facts and circumstances, I do not find any merit in the writ petition and the same is accordingly disposed of without any interference to the order impugned. However, keeping in mind that the main reference or the miscellaneous case is pending since 2003 the Tribunal should make an endeavour to dispose of the main reference and the miscellaneous case as expeditiously as possible preferably within six months from date.

Since I have not called for affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

The parties shall act on a server copy of this order without insisting upon production of a certified copy thereof.

(Arindam Mukherjee, J.)