

07.05.2024
Sl. No.8
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 608 of 2024

Debnath Halder & Ors.
Vs.
Union of India & Ors.

Mr. Rajorshi Roy
....for the petitioners.

Mr. Kallol Kumar Basu
....for the respondent no.1.

Ms. Reshmi Ghosh
....for the respondent nos.3 & 4/B.S.N.L.

Mr. Manabendranath Bandyopadhyay
....for the respondent nos.6 & 8.

The petitioners say that they were engaged as Security Guard through different security agencies which for the convenience they refer as contractors for being deployed at the Salt Lake Telephone Exchange of Bharat Sanchar Nigam Limited (in short, "B.S.N.L.") under Calcutta Telephones. The petitioners say that some of them are engaged through such contractors for about 26 years and most of the others are working as such Security Guard for about 22 years.

The petitioners have two-fold grievances. The first grievance is that non-payment of wages by the contractors to whom they have been engaged and as such, the petitioners claim that the principal (B.S.N.L.) should pay the wages and arrear wages. The second one is that there has been some incident of pilferage

reported at Salt Lake Telephone Exchange. Some of the Security Guards have been proceeded with and their services have been terminated without following the basic tenets of law. There has been no domestic enquiry. There has also been no adherence to the principles of natural justice, according to the petitioners.

The petitioners also say that they had gone before the appropriate authority under the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as "the CLRA Act"), but nothing has happened over there.

The writ petitioners, therefor, seek a direction from this Court injuncting the management from treating the services of the petitioners to be terminated and reinstate them with all back wages.

On behalf of B.S.N.L., the maintainability of the petition at the instance of the writ petitioners is questioned. Furthermore, on behalf of B.S.N.L., it is submitted as a principal employer in the facts of the instant case, they did not owe any responsibility to pay the arrears of wages, if any. Moreover, since the petitioners are not employees of B.S.N.L., they are not required to hold any domestic enquiry to remove the petitioners. The employer-employee relation, if any is between the Contractor and the petitioners. If any termination of employment has taken place it is the

contractor who may have terminated the services of the petitioners for which B.S.N.L. concerned also be held responsible.

On behalf of the contractor (respondent no.6), it is submitted that whatever wages were due and payable to the petitioners have already been paid.

The aforesaid two issues are governed by different statutes. So far as the alleged unpaid wages of the contract labourers are concerned, the same is required to be addressed under the provisions of the CLRA Act. The appropriate authority is the central authority in the instant case as B.S.N.L., the principal has multi-state operation.

The petitioners are, therefor, granted leave to approach the Labour Commissioner, Central, being the authority under the CLRA Act so far as the alleged wage disputes are concerned.

In the event the petitioners approach the said Labour Commissioner by 22nd May, 2024, the said Labour Commissioner shall adjudicate the grievances of the petitioners after affording the petitioners, the immediate employer and the principal adequate opportunity of hearing. The entire exercise should be completed within a period of 6 months from the date of the petitioners approaching the Labour Commissioner.

In respect of the termination of the service, the petitioners have the right to challenge the same in

terms of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the "I. D. Act").

The petitioners are granted liberty to approach the appropriate authority under the I. D. Act for conciliation and if the same fails the appropriate Government shall take necessary steps in accordance with the provisions of I. D. Act.

In the event the petitioners approach the appropriate authority under the I. D. Act for conciliation within 22 May, 2024, the appropriate authority shall complete the conciliation process within a period of 3 months from being approached. Depending upon the result of the conciliation, subsequent steps will follow.

Nothing further remains to be adjudicated in this application. The same is disposed of accordingly.

Since I have not entered into the merits of the dispute, I permit B.S.N.L. and the respondent no.6 to take these points, if permitted, before the appropriate authority.

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

All parties to act on the basis of a server copy of this order without insisting upon production of a certified copy thereof.

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

(Arindam Mukherjee, J.)