

Item-
11. 20-02-2024

sg Ct. 8

MAT 215 of 2024
CAN 1 of 2024

Md. Noor Ajam & Ors.
Versus
Union of India & Ors.

Mr. Anilendra Pandey, Adv.
Mr. Prithish Chandra, Adv.
...for the appellants
Mr. Asok Kumar Chakraborty, Id. ASG
Mr. Sukanta Chakraborty, Adv.
Mr. Rivu Dutta, Adv.
Mr. Rhitam Chatterjee, Adv.
...for the respondent nos.1-4

1. The appeal is arising out of an order dated 7th December, 2023 in a writ petition in which the writ petitioners prayed, inter alia, for implementation of a report of the Deputy Chief Labour Commissioner (Central, Kolkata) dated 21st October, 2022 prepared on the basis of the direction passed by the learned Single Judge on December 20, 2021 in WPA 13736 of 2021.
2. Mr. Asok Kumar Chakraborty, learned Additional Solicitor General, appearing on behalf of the respondent nos. 1 to 4, has submitted that the report of the Deputy Chief Labour Commissioner (Central, Kolkata) is nonest in law as the proper procedure would have been to raise an industrial dispute with the appropriate Government for a reference under Section 10 of the Industrial Disputes Act, 1947.
3. Mr. Anilendra Pandey, learned Counsel, appearing on behalf of the appellants, has submitted that the order passed by the learned Single which had culminated in the report to be prepared by the Deputy Chief Labour Commissioner (Central, Kolkata) on 21st October, 2022 is not under challenge and the

said order has been implemented. In view of the acceptance of the said order, the respondents cannot now argue that the proper remedy would be to make a reference under Section 10 of the Industrial Disputes Act, 1947.

4. Indisputably, the order passed by the learned Single Judge in the earlier proceeding has been implemented and the Deputy Chief Labour Commissioner (Central, Kolkata) has prepared a report dated 21st October, 2022. In the present writ proceeding, the respondents have taken exception to the said report and have argued that the said report is not binding as it is not an adjudication by any authority or forum created under the Statute.
5. The issue relates to regularization and absorption of the writ petitioners, being the present appellants, who have been engaged by a contractor and being employed in the various establishments of the Railway authorities. The matter of regularization of labour and particularly contract labour are required to be dealt with upon consideration of the materials available on record. The employer would be the best person to produce all the relevant documents concerning the engagement of the present appellants as the documents would speak for itself.
6. Instead of immediately directing the present appellants to raise an industrial dispute based on the report of the Deputy Chief Labour Commissioner (Central, Kolkata) with the appropriate Government, we feel that having regard to their nature and length of engagement, a body may be constituted under the aegis of the Chairman, Railway Board for

consideration of the grievances of the appellants along with the report dated 21st October, 2022 in order to take a conscious decision keeping in mind the nature of labour legislation.

7. Under such circumstances, we modify the order passed by the learned Single Judge by requesting the Chairman, Railway Board, to constitute a committee within a period of three weeks from the date of communication of this order, who shall consider the grievances of the appellants along with the report prepared on 21st October, 2022 after giving a reasonable opportunity of hearing to the appellants, who may be allowed to be represented by an Advocate, the Contractor and the Railway Department and dispose of the matter within a period of six weeks thereafter by a reasoned order, which shall be communicated to Mr. Anilendra Pandey, Advocate representing the present appellants, within two weeks from the date of the said order.
8. In view of the aforesaid direction it is not necessary to decide the issue of maintainability of the writ petition. Parties shall be at liberty to take appropriate steps after the decision of the committee is communicated to the parties.
9. Since affidavits have not been exchanged, all allegations are deemed to have been denied.
10. With the aforesaid directions, the appeal and the application are accordingly, disposed of. However, there shall be no order as to costs.
11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite

formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)