

09. 05. 2024

BP
Sl. 3
Court No. 23

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11549 of 2024

Jhantu Kumar Bayen & Ors.
Vs.
The Union of India & Ors.

Mr. Rajdatta Chattopadhyay
Mr. Swastik Daga
Ms. Risha Das
..for the petitioners

Mr. Debanjan Mukherjee
Mr. Partha Chakraorty
..for the respondents

Affidavit of service filed in Court today is taken on record.

The petitioners' claim to be employees of Burn Standard Company Limited which according to the petitioners was taken over initially by the Ministry of Heavy Industries and Public Enterprises Department of Heavy Industry, Government of India and thereafter by the Ministry of Railways. The petitioners say that they have been illegally and unlawfully retrenched by their employer. The petitioners also claim that they have been continuously making representation for considering their grievances against illegal and unlawful retrenchment to the railway authorities but most of them remained unaddressed. The last of such representation appears to

have been made on 7th September, 2023 which is annexed at page 171 of the writ petition. Although, writing of letters and/or making representation one after the other do not take care of the delay in approaching the Court or any Fora but in this case it is found that the Eastern Railway Authorities by a letter dated 7th February, 2024 (at page 173 of the writ petition) has replied to the representation made by the petitioner no.2 and other workmen on 7th September, 2023.

Taking a lenient view to the delay aspect, the cause of action, if any, for consideration of the grievances of the petitioners can at the highest be said to have accrued on or after 7th February, 2024 when there has been a clear denial of the claims said to have been made by the petitioners.

Under Sections 2(a) and Section 2 (o) of the Industrial Disputes Act, 1947 (in short I.D. Act) the appropriate Government in respect of any industry carried on or managed by a railway company is the Central Government. Assuming without admitting that the claims of the petitioners are live as on 7th February, 2024 then also the petitioners are required to approach the appropriate Government for redressal of their grievances the main of which is illegal retrenchment. Retrenchment is defined under Section 2(oo) of the I.D. Act which comes

within an industrial dispute in view of the provisions of Section 2(k) of the I.D. Act.

In the aforesaid facts and circumstances, the writ petition having been made directly to this Court to ventilate the grievances arising out of the rejection of the petitioners' claim by its employer has to be redressed through the appropriate Government i.e. the Central Government in the instant case. The Writ Court cannot usurp the jurisdiction conferred by the statute for redressal of grievance relating to illegal retrenchment. The petitioners are, therefor, granted liberty to approach the appropriate Government within 22nd May, 2024 failing which the appropriate Government even if approached will not be bound to take on board the grievances of the petitioners for redressal.

The writ petition is accordingly disposed of.

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

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

(Arindam Mukherjee, J.)

