

06. 24.04.2024
bd. Ct.23

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 17271 of 2022

Mejia Thermal Power Station
Thikadar Mazdur Union
-vs-
Union of India & Ors.

Mr. D.N.Roy
Ms. Munmun Tewari
Ms. Sanchita De
Ms. Moumita Das Bairagi ... for the petitioner.

Mr. Ashok Halder ... for the Union of India

Mr. Pradip Tarafdar
Mr. Subir Paul ... for the respondent nos. 2 to 4

The petitioner claims to be a registered Trade Union and is representing the contract labours in Damodar Valley Corporation (in short DVC) as its Mejia Unit. The petitioner had previously filed a writ petition being W.P. 5100 (W) of 2012. The said writ petition was disposed of by an order dated 27th August, 2013. The operative portion of the said order is as follows:

“ In that view of the matter, I dispose of the writ application by directing that the grievance of the applicant may be ventilated by making a written representation to the management of Damodar Valley Corporation, with a copy to the INTUC.

The employer, Damodar Valley Corporation, will consider such representation in accordance with

law by a reasoned order within a reasonable time of receiving the representation. It will also be obligatory on Damodar Valley Corporation to give the applicant a hearing at the time of consideration of the representation.

It is expected that the above Corporation will take all steps to ensure that no unfair practices take place in their establishment.”

In terms of the liberty granted by the order dated 27th August, 2013 for making a representation the petitioner made a representation on 1st July, 2022 i.e., after about nine years. The liberty granted by the order dated 27th August, 2013 cannot be construed as a liberty for making a representation beyond a reasonable period of time. Nine years under no stretch of imagination can be construed to be a reasonable period of time. The situation which was prevailing in 2013 may not be prevailing in 2022. The employer Damodar Valley Corporation (in short “DVC”) therefore, is found to be justified in not considering the representation made belatedly. It also appears that this writ petition has been filed only to give life to the grievances of the petitioner said to be existing in 2013 when the previous writ petition was disposed of by granting the petitioner a liberty to make such representation. However, considering that the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 cast some obligation on the principle in respect of the contract labours engaged through contractor, the Executive Director, (Human Resource), DVC, is directed to dispose of the

representation dated 1st July, 2022 by giving the petitioner being represented by its office bearers a reasonable opportunity of hearing. The entire exercise shall be completed within a period of four months from the date of communication of this order without granting any unnecessary adjournments to the petitioner and or their representatives. The decision dealing with the representation shall be communicated immediately upon being made to the petitioner. All parties including the Executive Director (Human Resources), D.V.C. who is not a party to this proceeding shall act on the basis of server copy of this order without insisting upon production of certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly,

Since I have not called for any affidavits, allegations made 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 formalities.

(Arindam Mukherjee, J.)