

21.11.2024
Court No.13
Item No. 56

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FMA 683 of 2024
Sri Mahendra Balmiki
Vs.
The Union of India & Ors.

1. Parties are not represented.
2. The instant appeal arises out of an order dated 23rd August, 2017 passed in WP No. 16901 (W) of 2017 (Mahendra Balmiki Vs. Union of India & Ors.).
3. By the impugned judgment, the Single Bench has refused to interfere with an order passed by the Central Government, declining to make a reference under Section 10 of the Industrial Disputes Act, 1947 to the appropriate Industrial Tribunal after failure of conciliation proceeding.
4. The brief fact of the case are that in the year 2015, the Trade Union of the Rifle Factory at Ichhapore made an appeal before the General Manager to protect its members against the unfair approach taken by the contractor who engaged them at the Rifle Factory.
5. Upon refusal of the General Manager to interfere, conciliation proceeding ensued between the petitioners and the management of the Ichhapore Rifle Factory. Such conciliation failed and a report was sent to the appropriate government in this regard.

6. The Central Government, by order dated 25th December, 2016, however, refused to refer the dispute between the petitioners and the Ichhapore Rifle Factory to the Industrial Tribunal for adjudication. The reason assigned by the Central Government was that the petitioners were workers engaged through a contractor. They knew of their status vis-à-vis the Rifle Factory from the inception. They, therefore, could not have any legitimate expectation of being employed directly under the Rifle Factory.

7. By order dated 12th April, 2017 passed in an earlier writ petition, the petitioners were granted liberty to challenge the aforesaid decision of the Central Government dated 28th December, 2016.

8. The Single Bench found that the reason for refusal by the Central Government to refer the dispute for adjudication to the Tribunal was sound and took into consideration all relevant matters. The decision of the Supreme Court in the case of ***State of Karnataka & Ors. Vs. Uma Devi (3) & Ors.*** reported in ***(2006) 4 SCC 1*** was referred to by the Central Government holding that when a person enters a contractual employment, he is aware of the consequences of such employment being casual in nature.

9. It was further found by the Central Government and approved by the Single Bench that there cannot be any legitimate expectation on the

part of a temporary employee in the instant case. The Single Bench has appropriately dealt with the unreported decision dated 18th November, 2006 passed by the Delhi High Court in the case of ***Ramesh Kumar & Ors. Vs. Union of India [W.P. (C) No. 15536-636 of 2006]*** and had also considered the decision in the case of ***Bombay Union of Journalists Vs. State of Bombay*** reported in ***(1964) 1 LLJ 351.***

10. In the above circumstances, since a writ Court does not sit in appeal over an administrative decision of the Central Government in refusing to refer a dispute for adjudication by the Industrial Tribunal, the Single Bench has rightly rejected the case of the petitioners. This Court finds no reason to upset or interfere with the order of the Single Bench.

11. In view of the above, FMA 683 of 2024 shall stand dismissed.

12. Interim orders, if any, shall stand vacated.

13. There shall be no order as to costs.

14. Let the T.C.R., if any, be returned to the court below.

15. The Registry shall communicate this order to the Court below.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)