

23.04.2024
Sl. No. 3.
D/L.
Mithun
Ct.No.23.

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side
WPA 26104 of 2023**

**Md. Zahid
Vs.
The Syama Prasad Mookherjee Port Trust,
Kolkata & Ors.**

Mr. Rishabh Ahmad Khan
..for the petitioner.

Mr. Ashok Kumar Jena
...for respondents no.3 to 8.

Mr. Shyamal Kumar Mukherje
...for respondents no.1, 2, 9, 10 & 12.

Report filed on behalf of respondents no.1 and 2
and the report filed on behalf of respondent no.3 are
taken on record.

The petitioner alleges that being a dock worker
having his registration no.JPM-369, the petitioner's
employment is governed by the Calcutta Dock Workers
(Regulation of Employment) Scheme, 1970
(hereinafter referred to as the 1970 Scheme). By
directing the petitioner to render service with Syama
Prasad Mookherjee Port, Kolkata, the respondents
have violated the provision of the 1970 Scheme which
has a statutory flavour and thereby has altered the
petitioner's condition of service.

After hearing the parties and considering the materials on record including the reports filed on behalf of respondents no.1 and 2 and respondent no.3, it appears that pursuant to a policy decision taken by Calcutta Dock Labour Board (respondent No.3) on 8th September, 2011, a job opening for the petitioner was made through Syama Prasad Mookherjee Port, Kolkata. The petitioner was to do the same work which he had to perform in the Dock Labour Board with the Syama Prasad Mookherjee Port, Kolkata. It was also decided that the Syama Prasad Mookherjee Port, Kolkata shall pay the wages of the petitioner to the Dock Labour Board (respondent no.3) upon bills being raised by Dock Labour Board on Syama Prasad Mookherjee Port, Kolkata. The payments so made by Syama Prasad Mookherjee Port, Kolkata through Dock Labour Board would go to the petitioner. The respondents, therefor, say that there has been no change in the service condition of the petitioner. This is a disputed fact in view of the assertion by the petitioner and denial by the respondents which requires to be adjudicated. The change in conditions of service of a worker is required to be ventilated under the provisions of Industrial Disputes Act, 1947 (in short 'I.D. Act'). The procedure laid down under

the I.D. Act is crystal clear. There is as such an alternative remedy available to the petition which is more effective and efficacious than a writ petitioner wherein the scope of adjudication on facts is very limited.

In the aforesaid facts and circumstances, the writ petition is disposed of by granting the petitioner liberty to raise an Industrial Dispute before the appropriate Government as may be permitted in law. In the event such disputes are raised within a period of one month from date, the appropriate authority shall consider the same following the procedure laid down under the ID Act, 1947. The concerned Authority as also the Tribunal, if a reference is at all place before it shall decide the issues before them independently without being anyway influence by any observation made in this order. It is also made clear that I have gone into the merits of this case.

(Arindam Mukherjee, J.)