

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7623 of 2024

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NTPC Limited Barh STPP, Patna- 803215 through its Senior Manager (HR-ED), Abhishek Anand, aged about 37 years, Gender Male, Son of Sri Prabhat Kumar.

... .. Petitioner/s

Versus

1. The Union of India through the Under Secretary, Ministry of Labour and Employment, Government of India, Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001.
2. Under Secretary to the Government of India, Ministry of Labour and Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001.
3. The General Secretary, NTPC Employees Union (Reg. No. 4186), NTPC Barh, Post- NTPC Campus, Barh, Patna- 803215.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar
For the Respondent/s : Mr. Additional Solicitor General

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 30-08-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

relief(s):-

“A. For quashing/setting aside the 'Order of Reference' bearing no. L-42011/4/2022-IR(DU) dated 15.02.2022 (Annexure 'P-1') issued by the Central Government in purported exercise of power conferred by Clause (d) of Sub-section (1) & sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter for brevity referred to as 'the ID Act, 1947') whereby the Central Government has illegally and arbitrarily referred an imaginary and non-existing dispute for adjudication by the Central Government Industrial Tribunal-cum-Labour Court No. II, Dhanbad, which was never a subject matter of 'industrial dispute between



the petitioner and the Respondent no.3 union and,

B. For staying the proceedings of Reference Case No.03 of 2022 presently being carried out by Central Government Industrial Tribunal-cum-Labour Court No. II, Dhanbad in pursuance of the aforesaid 'Order of Reference' bearing no. L-42011/4/2022-IR(DU) dated 15.02.2022, and

C. For grant of any other relief or reliefs for which the petitioner is found to be entitled to in the facts and circumstances of the case.”

3. It is the case of the petitioner that based on the complaint given by the workers, the Government had decided to refer the matter to the Labour Court for adjudication of the dispute under Section (d) of sub-section (1) & sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the ID Act, 1947).

4. It is stated by the learned counsel for the petitioner that one Ajay Kumar Prajapati General Secretary of NTPC Employees Union gave the complaint dated 19.09.2021 and, the Government came to the conclusion that there is a dispute between the parties and referred the matter to the Labour Court. It is further submitted that the only complaint of the respondent No. 3 (Union) herein was that the ACR (Annual Confidential Rating) have been deliberately disregarded and that the management are not providing the ACR/AAR and ratings of the workers is not being



done in a time bound manner. Based on the said complaint, the Central Government has issued the order dated 15.02.2022 referring the matter for adjudication to the Labour Court under Section (d) of sub-section (1) & sub-section (2A) of Section 10 of the ID Act, 1947. Learned counsel has stated that the reference made by the Central Government is totally erroneous and the terms of the reference are contrary to the complaint made by the Union. Learned counsel has stated that though the petitioner employer has filed his preliminary objections against the reference made, the Labour Court did not take the same into consideration and proceeding with the matter. That the petitioner left with no other option has approached this Hon'ble Court by way of the present CWJC. Learned counsel has taken the Court to the complaint made by the Union dated 19.09.2021 (Annexure-P/2) and the reference made by the Central Government dated 15.02.2022 and also the promotion order DPC 2020 dated 07.07.2020 (Annexure-P/7) pertaining to the said Ajay Kumar Prajapati in support of his contention. Learned counsel has relied on the judgment of the Hon'ble Supreme Court in the case of *M/s Tata Iron & Steel Co. Ltd. Vs. State of Jharkhan & Ors.* reported in *2014 (1) PLJR (SC) 122*.



5. *Per contra*, the learned counsel appearing on behalf of the respondent No. 3 has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioner without awaiting the result of the award likely to be passed by the Labour Court has approached this Hon'ble Court prematurely. Learned counsel has stated that the petitioner as well as the respondent No. 3 have already filed their written statements of claim and the matter is pending adjudication before the Labour Court. Learned counsel has stated that entertaining of the present writ petition by this Court at this juncture is not permissible. Learned counsel has relied on the judgments of the Hon'ble Supreme Court in the case of *the Manager, Hotel Imperial Vs. The Chief Commissioner and Ors.* reported in *1960 SCR (1) 279* and the judgment of the Hon'ble High Court of Gujarat in the case of *Ralchem Limited Vs. Ajit Balakrishna Kadu + Three employees & 1* in support of his contention.

6. In order to appreciate the issue involved in the present writ petition, it is necessary to extract the relevant portions of the complaint made by the respondent No. 3, the relevant portion of the complaint dated 19.09.2021 reads as under;

"In view of foregoing premises, therefore, it is prayed to you to kindly initiate the following proceedings (1) for unfair labour practice on the part



of the management (2) amicable settlement to ratify merit rating (3) amicable settlement on informing/ providing AAR/ACR rating to every workman in writing.”

7. Further, the Central Government vide order dated 15.02.2022 has referred the matter to the Labour Court and the order of reference reads as under;

“The Schedule

Whether the action of the management of NTPC Ltd. Barh, in not disclosing the ACRs rating to the workmen concerned as raised by NTPC Employees Union vide letter dated 19.09.2021 is proper, legal and justified? If not, whether the action of the management of NTPC Ltd. Barh is not promoting to Sh. Ajay Kumar Prajapati, General Secretary of NTPC Employees Union, Barh on the basis of the NTPC Promotion Policy to the next higher grade, is proper, legal and justified? If not, to what reliefs the disputant union are entitled to and what other directions are necessary in the matter?”

8. A perusal of the above shows that the respondent No. 3 had never made any complaint regarding the promotion of the Sri Ajay Kumar Prajapati. Further, as seen from the record, the said Ajay Kumar Prajapati was already given a Promotion Order DPC 2020 on 07.07.2020 (Annexure-P/7). In case the said Ajay Kumar Prajapati has any grievance with regard to the promotion order, his remedy is to challenge the same before the appropriate forum. It is to be noted that the Union has never made a complaint with regard to the promotion of the said Ajay Kumar Prajapati, the



Union was only making a complaint about non-maintaining and non-furnishing of the ACRs.

9. The Hon'ble Supreme Court in the case of ***M/s Tata Iron & Steel Co. Ltd. Vs. State of Jharkhand & Ors.*** reported in ***2014 (1) PLJR (SC) 122.***

“18. The Industrial Tribunal/ Labour Court constituted under the Industrial Disputes Act is a creature of that statute. It acquires jurisdiction on the basis of reference made to it. The Tribunal has to confine itself within the scope of the subject matter of reference and cannot travel beyond the same. This is the view taken by this Court in number of cases including in the case of National Engineering Industries Limited vs. State of Rajasthan & Ors. (2000) 1 SCC 371.

19. It is for this reason that it becomes the bounden duty of the appropriate Government to make the reference appropriately which is reflective of the real/ exact nature of "dispute between the parties. In the instant case, the bone of contention is as to whether the respondent workmen were simply transferred by the appellant to Mis Lafarge or their services were taken over by M/s Lafarge and they became the employees of the M/s Lafarge. Second incidental question which would follow therefrom would be as to whether they have right to join back the services with the appellant in case their service conditions including salary etc. which they were enjoying with the appellant are not given or protected by M/s Lafarge? If it is proved that their service conditions are violated, another question would be as to whether they can claim the service benefits/protection from M/s Lafarge or they have the right to go back to the appellant?

20. It follows from the above that the reference in the present form is clearly defective as it does not take care of the correct and precise nature of the dispute between the parties. On the contrary, the manner in which the reference is worded shows that it has already been decided that the respondent workmen



continue to be the employees of the appellant and further that their services were simply transferred to M/s Lafarge. This shall preclude the appellant to put forth and prove its case as it would deter the Labour Court to go into those issues. It also implies that by presuming so, the appropriate Government has itself decided those contentious issues and assumed the role of an adjudicator which is, otherwise, reserved for the Labour Court/Industrial Tribunal.”

10. Though the learned counsel for the respondents has relied on the above mentioned judgment of the Hon’ble Supreme Court in the case of ***the Manager, Hotel Imeprial Vs. The Chief Commissioner and Ors.*** reported in ***1960 SCR (1) 279*** and the judgment of the Hon’ble High Court of Gujarat in the case of ***Ralchem Limited Vs. Ajit Balakrishna Kadu + Three employees & I***, it is to be noted that the two judgments are distinguishable from the facts of the present case and therefore, not applicable. This Court under usual circumstances could have relegated the petitioner to agitate his rights before the Labour Court but in this particular case, the point of reference by the Central Government is clearly defective and does not take care of the precise complaint or precise nature of the dispute existing between the parties.

11. Having regard to the above mentioned facts and circumstances and also the law laid down by the Hon’ble Supreme Court in the case of ***M/s Tata Iron & Steel Co. Ltd. Vs. State of Jharkhan & Ors.*** reported in ***2014 (1) PLJR (SC) 122***, this Court



is inclined to set aside the reference dated 15.02.2022 and the same is accordingly set aside. The present writ petition stands allowed. However, it is made clear that this order does not preclude the appropriate government to make a fresh reference duly taking into consideration the real nature of the dispute which is existing between the parties.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2025.
Transmission Date	NA

