

19.03.2025
Ct. No. 30
S.L. No.12
SM

WPA 3224 of 2025
Rajesh Balmiki & Ors.
Vs.
Union of India & Anr.

Mr. Suvadip Bhattacharjee
Mr. Balaram Patra
.....for the petitioners

Mr. Rudrajyoti Bhattacharjee
Ms. Arushi Rathore
.....for the Union of India

Mr. Shiv Chandra Prasad
.....for the E.S.I. Corporation

The present writ application has been preferred against an award dated 22.04.2024 passed by the Central Industrial Tribunal cum Labour Court, Kolkata in Reference No. 57 of 2014 under the Industrial Dispute Act.

Written notes filed on behalf of the respondent no. 2/ESI Hospital has been filed annexing the copy of the agreement between the contractor and the principle employer. Let the agreement be made part of the record.

Heard the learned counsels appearing for all the parties including the Union of India. It appears from the award under challenge that the reference to be adjudicated by the Tribunal was as follows.

“Whether the action of the management of ESIC Hospital & ODC (EZ) in denying the regularisation of

*service of Shri Shew Kumar Balmiki & 21 other workders (List enclosed) is legal and/or justified? **If not, what relief the workmen are entitled to?***

The learned presiding officer of the Tribunal considering the materials on record and on hearing the matter in respect of the said reference decided as follows.

“In view of the above, prima facie there exists no relationship of employer and employee in between ESIC and its contractor’s employees and claim of absorption of those 22 contractor labours in the ESIC hospital that too against non-existing sanction vacant posts is not maintainable. Therefore, ESIC authority is justified in denying the regularisation of its contractor’s employees.

Accordingly, the Reference No. 57 of 2014 is dismissed and an award to that effect is passed.”

Sd/-

Presiding Officer

From the said final finding in the award it appears that **only a part of the reference has been answered** by the Tribunal that is the first part.

The second part of the reference to the extent “If not, what relief the workmen are entitled to?” has not been answered by the Tribunal.

Accordingly the matter is remitted back to the **Tribunal to give its finding in respect of the second part of the reference as observed herein.**

Considering that the part left to be answered is a short matter, the Tribunal shall answer the same within a period of 30 days from the date of this order.

It is clarified that only the second part of the reference is required to be answered, on considering the materials **already** on record and by giving an opportunity of hearing to the parties.

WPA 3224 of 2025 stands disposed of.

Applications, if any, connected thereto stand disposed of consequently.

Interim order, if any, stands vacated.

Photostat certified copy of this order, if applied for, being given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]