

26.02.2025
Ct. No. 30
S.L No.3
SM

WPA 3742 of 2025
Eastern Coalfields Limited
Vs.
Union of India & Ors.

Mr. Manik Das
.....for the petitioner

Mr. Rivu Dutta
Ms. Hasi Saha
Mr. Rhitam Chatterjee
.....for the Union of India

1. The writ application has been preferred against an award dated 15.03.2024 passed by the Central Government Industrial Tribunal cum Labour Court, Asansol, in reference Case No. 09 of 2022.
2. It is the case of the petitioner that the award passed is beyond the point of reference and as such has prayed for setting aside of that part of the award which is beyond the point and scope of reference. It appears that the schedule of reference made to the Tribunal is as follows:-

“The Schedule

Whether the demand of Union i.e. Koyala Mazdoor Congress for payment of monetary compensation from October, 1995 to February, 1997 to Smt. Mina Devi, Wife of Late Sitaram Singh, Ex-Pump Khalasi on the basis of management letter No. SAT/GM/PER/Empl/4090/97/666 dated

17/18.1.1997 issued by G.N. Singh, Dy. Chief Personnel Manager, Satgram Area of M/s. ECL is legal and justified? If yes, to what relief Smt. Mina Devi, Wife of Late Sitaram Singh is entitled and what direction are necessary in this regard.”

3. The award passed is as follows:-

“Ordered

That the Industrial Dispute is allowed on contest in favour of Mina Devi. An award be drawn up in her favour for payment of monetary compensation for the unpaid period from 12.09.1995 till February 1997 and from 05.01.1999 till the date of appointment of Yogendra Singh under ECL on 20.03.2015. The balance amount of monetary compensation be assessed and disbursed within three (3) months from the date of Notification of the Award. ”

- 4.** As such it appears that the part of the award it is granted monetary compensation on and from 05.01.1999 till the appointment of Yogendra Singh is admittedly beyond the scope of reference.

- 5.** In ***Hochtief Gammon vs Industrial Tribunal, Bhubaneshwar, Orissa and Ors., (AIR 1964 SC 1746), decided on 1st April, 1964,*** the Supreme Court held:-

“7. In dealing with this question, it is necessary to bear in mind one essential fact, and that is that the Industrial Tribunal is a Tribunal of limited jurisdiction. Its jurisdiction is to try an

industrial dispute referred to it for its adjudication by the appropriate Government by an order of reference passed under Section 10. **It is not open to the Tribunal to travel materially beyond the terms of reference, for it is well-settled that the terms of reference determine the scope of its power and jurisdiction from case to case.** Section 10 itself has been subsequently amended from time to time. Act 18 of 1952 made substantial amendments in Section 10. One of these amendments was that Section 10(1)(d) now empowers the appropriate Government to refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule, or the Third Schedule, to a Tribunal for adjudication. In other words under Section 10(1)(d), the appropriate Government can refer to the Industrial Tribunal not only a specific industrial dispute, but can also refer along with it matters appearing to be connected with, or relevant to, the said dispute. In that sense the power of the appropriate Government has been enlarged in regard to the reference of industrial disputes to the Tribunal.

8. Section 10(4) which was also added by the same amending Act provides, *inter alia*, that the jurisdiction of the Industrial Tribunal would be confined to the points of dispute specified by the order of reference, and adds that the said jurisdiction may take within its sweep matters incidental to the said points. In other words, where certain points of dispute have been referred to the Industrial Tribunal for adjudication, it may, while dealing with the said points, deal with matters incidental thereto, and that means that if, while dealing with such incidental matters, the Tribunal feels that some persons who are not joined to the reference should be brought before it, it may be able to make an order in that behalf under Section 18(3)(b) as it now stands.

12. Reverting then to the question as to the effect of the power which is implied in

Section 18(3)(b), it is clear that this power cannot be exercised by the Tribunal so as to enlarge materially the scope of the reference itself, because basically the jurisdiction of the Tribunal to deal with an industrial dispute is derived solely from the order of reference passed by the appropriate Government under Section 10(1). What the Tribunal can consider in addition to the disputes specified in the order of reference, are only matters incidental to the said disputes; and that naturally suggests certain obvious limitations on the implied power of the Tribunal to add parties to the reference before it, purporting to exercise its implied power under Section 18(3)(b). If it appears to the Tribunal that a party to the industrial dispute named in the order of reference does not completely or adequately represent the interest either on the side of the employer, or on the side of the employee, it may direct that other persons should be joined who would be necessary to represent such interest. If the employer named in a reference does not fully represent the interests of the employer as such, other persons who are interested in the undertaking of the employer may be joined. Similarly, if the unions specified in the reference do not represent all the employees of the undertaking, it may be open to the Tribunal to add such other unions as it may deem necessary. The test always must be, is the addition of the party necessary to make the adjudication itself effective and enforceable? In other words, the test may well be would the non-joinder of the party make the arbitration proceedings ineffective and unenforceable? It is in the light of this test that the implied power of the Tribunal to add parties must be held to be limited.

15. *In Anil Kumar Upadhaya v. P.K. Sarkar [AIR 1961 Cal 60] a learned Single Judge of the Calcutta High Court has accepted the same view. In that case, the Trustees of the Provident Fund in question who had not been impleaded originally to the reference were summoned by the Tribunal and the Court held that in the absence of the Trustees, the award would*

have become nugatory. It would be noticed that in all these decisions, the implied power of the Tribunal to summon additional parties in the reference proceedings is confined only to cases where such addition appeared to be necessary for making the reference complete and the award effective and enforceable. Such a power cannot be exercised to extend the scope of the reference and to bring in matters which are not the subject-matter of the reference and which are not incidental to the dispute which has been referred.

17. The next contention raised by Mr Chatterjee is that M/s Hindustan Steel Ltd. is a necessary party because it is the said concern which is the employer of the respondents and not the appellant. In other words, this contention is that though in form the appellant engaged the workmen whom the respondent Union represents, the appellant was acting as the agent of its principal and for adjudicating upon the industrial dispute referred to the Tribunal by the State of Orissa, it is necessary that the principal viz. M/s Hindustan Steel Ltd. ought to be added as a party. In dealing with this argument, it is necessary to bear in mind the fact that the appellant does not dispute the respondent Union's case that the workmen were employed by the appellant. It would have been open to the State Government to ask the Tribunal to consider who was the employer of these workmen and in that case, the terms of reference might have been suitably framed. Where the appropriate Government desires that the question as to who the employer is should be determined, it generally makes a reference in wide enough terms and includes as parties to the reference different persons who are alleged to be the employers. Such a course has not been adopted in the present proceedings, and so, it would not be possible to hold that the question as to who is the employer as between the appellant and M/s Hindustan Steel Ltd. is a question incidental to the industrial dispute which has been referred under Section 10(1)(d).

This dispute is a substantial dispute between the appellant and M/s Hindustan Steel Ltd. and cannot be regarded as incidental in any sense, and so, we think that even this ground is not sufficient to justify the contention that M/s Hindustan Steel Ltd. is a necessary party which can be added and summoned under the implied powers of the Tribunal under Section 18(3)(b).

18. *The result is, though we accept Mr Chatterjee's argument that Section 18(3)(b) postulates the existence of an implied power in the Tribunal to add parties and summon them, in the present case that power cannot be exercised, because having regard to the limited nature of the implied power, M/s Hindustan Steel Ltd. cannot be regarded as a necessary party under the provisions of Section 18(3)(b). The appeal accordingly fails and is dismissed with costs."*

6. Section 10 of the Industrial Disputes Act,

1947 lays down:-

"10. Reference of disputes to Boards, Courts or Tribunals.- (1) *[Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing-*

(a) refer the dispute to a Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

[(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or]

[(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect

more than one hundred workmen the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c):]

.....

*[(4) Where in an order referring an industrial dispute to [a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] **shall confine its adjudication to those points and matters incidental thereto.].....”***

7. Considering the facts on record, the award dated 15.03.2024 passed in reference case no. 9 of 2022 by the Central Government Industrial Tribunal cum Labour Court, Asansol is modified to the following extent.
8. The sentence **“in the award dated 15.03.2024 and from 05.01.1999 till the appointment of Yogendra Singh under ECL on 20.03.2015” is deleted.**
9. Rest of the order remains unchanged.
10. The said portion of the order as above is thus quashed only on the point of it being beyond the scope of reference and not in respect of the legality of the claims or dues as admissible.
11. The said claim as modified be addressed within 60 days from the date of this order.

- 12.** All connected application, if any, stands disposed of.
- 13.** Interim order, if any, stands vacated.
- 14.** All parties to act on the basis of server copy of this order downloaded from the official website of this Court.

[Shampa Dutt (Paul). J]