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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(212)

**CWP-19750-2017 (O&M)
Date of Decision : March 07, 2025**

M/s Oriental Engineering Works Pvt. Ltd.

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashwani Talwar, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Inderjeet Singh, Advocate, for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 04.01.2017 (Annexure P-1) passed by Labour Department, Government of Haryana by which, certain questions have been referred by State Government under Section 10 (1) (C) of the Industrial Disputes Act, 1947 for the adjudication to be done by the Labour Court. The said reference dated 04.01.2017 bearing endorsement dated 14.06.2017 is under challenge in the present writ petition.

2. Learned counsel for the petitioner argues that the aforementioned reference is vague and does not convey any question of fact/law required to be adjudicated by the Labour Court hence, the said reference is liable to be set aside.

3. Upon notice of motion, the respondents have appeared and have stated that all the points of reference referred for adjudication before

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the Labour Court are perfectly valid and legal and no question of fact or law referred for the adjudication is vague in any manner and therefore, the present writ petition is liable to be dismissed.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. The Reference has been made on 14 Demands raised by the workman.

6. Learned counsel for the petitioner submits that there is no discrepancy with regard to the demands No 1 to 5.

7. The question is being raised qua Demand No.7, 9 (wrongly mentioned as Demand No.8 in Annexure P-1), 10, 11, 12, 13 and 14.

8. The Demand No.7 is as under:-

“ Is this Company a Private Limited Company and takes subsidy from the Government on the loan for providing various facilities to the workmen. Therefore, Oriental Engineering Works Pvt. Ltd is a Private Limited Company. However, it is a matter of regret that the Company, despite taking benefit from the Government, is not passing on the benefits to the workers. Are the workers entitled to be above benefits. If so, then under what elucidation.”

9. A bare perusal of the above mentioned Demand No.7 would show that the question of law which is being referred is once, the subsidy is being taken by the petitioner for providing various facilities to the workman, then whether the said subsidy is to be used for the benefit workman or for any other purposes. The said question cannot be said to be vague in any manner.

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10. The Demand No.9 (wrongly mentioned as Demand No.8) is as under:

“ Are the applicants working as labourers for the last many years in the Oriental Engineering Worker, Industrial Area, Yamunanagar. The applicants had been engaged by the owners of the factory themselves and right from their engagement till date, the applicants are entitled for working in the factory without any break. If so, then under what elucidation.”

A bare perusal of the above mentioned Demand No.9 would show that the question being asked herein is that whether the employees who are working with the petitioner, are entitled to continue in the engagement without any break. There is nothing vague about it as the question being asked is whether the petitioner can terminate the services of the employee as and when they deem it fit or not.

11. The Demand No.10 which is as under:

“ Have the applicants not been given any appointment letter so far by the owner of the factory and nor has any identity card been issued and nor is the attendance of the applicants being marked with the attendance of the regular workers on the attendance register for regular employees. Are the workers are entitled for the above. If so, then under what elucidation.”

12. A bare perusal of the above mentioned Demand No.10 would show that whether the appointment letter should be given to all the workers or not. The same also cannot be treated as vague and question that a contractual employee has to be given the appointment letter elucidating the description of nature of duties performed by the said worker. The same is fit

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to be adjudicated by the Labour Court.

13. The Demand No.11 and 12 is as under:

“ Demand No.11- In respect of most of the workers who have been still kept by the Factory Management in the category of casual workmen and they have been continuously being working in the factory for the last 3 years to 6-7 years and during the above period, the Factory Management has not given to the applicants bonus which is paid to the other permanent workmen and nor are they being given the case leave allowance and nor is the PF and ESI of the applicants being deposited. The total number of applicants is about 40 to 45 and as per law, the Management of the Factory is bound to deposit the ESI and PF of the applicants. However, despite that, neither the ESI of the applicants is being deducted and nor is the PF being deposited. Are the applicants entitled for deduction of ESI and deposit of PF. If so, then under what elucidation.

Demand No.12: Whether the applicants had requested the Factory Management that the ESI and PF of the applicants be deduced and the applicants be also given their pay, bonus, leave encashment and other legally admissible dues at par with the regular employees at which the Factory Management, instead of granting the above legal dues to the applicants, threatened to put them under the contract labour supplier. The applicants have right from beginning been working in the Factory under the Management and they are not liable to be put under the contract labour supplier. If so, then under what elucidation.

14. A bare perusal of the above mentioned Demand No. 11 and 12 would show that the workers are claiming the bonus for the period they have worked as well as the deposit of the provident fund as well as ESI,

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which benefits have not yet been admitted to the workers. Thus, the same also cannot be treated vague in any manner.

15. In case, the petitioner has any objection qua these demands, the objections for the same are to be raised before the Labour Court for consideration but the same cannot be treated as vague in any manner not to be adjudicated upon.

16. Demand No.13 & 14 is as under:-

“ Demand No.13: Whether the casual workers of our Company are being reflected as working under the contract labour supplier whereas the said workmen have never worked under the contract labour supplier. These workmen are working under the Company ever since they were engaged by the Company and are directly getting their wages from the Company. The wages for the months of June and July has been withheld and the factory Management has kept a condition that the workmen shall be paid the wages and in this manner by withholding the due wages of the workmen, they are being pressurized to sign the agreement letter for forcibly being put under the contract labour supplier which is totally illegal. The Assistant Labour Officer, Yamunanagar got the wages of the applicants for the months of June and July released under protest. In case it is the contention of the Company that the applicants are workers under the contract labour supplier then the entire records right from the date of their engagement till June, 2015 be produced. In case the Company through contract labour supplier does not produce the above records, they be regularized in the Company and granted all the benefits to which they are entitled. If so, then under what elucidation.

Demand No.14: Whether the applicants be stopped from being put under the contract labour supplier and besides that

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the applicants be given wages equivalent to the regular workers and the applicants be also issued appointment letter and the applicants are also entitled for issuance of Identity Cards. If so, then under what elucidation.”

A bare perusal of the above mentioned Demand No. 13 and 14 would show that question being asked herein is that whether the workman working with the petitioner are to be treated as working under the contract labour/supplier or not and in case company is claiming that any of the workman working with the petitioner is working through the contract labour supplier, then, the record of the said engagement though the contractor should be brought before the Court. This question referred to Labour Court for adjudication is also not vague in any manner.

17. Keeping in view the totality of the circumstances, the reference referred by the competent authority to the Labour Court for adjudication vide order dated 04.01.2017 (Annexure P-1) cannot be treated as vague in any manner.

18. The objection being put by the petitioner regarding the said question put forth by way of demand, is qua the merits of the same. This Court is not required to adjudicate the same as any objection qua the question raised are to be presented before the Labour Court for its consideration and the Labour Court will decide the issue after taking into consideration the objections raised as well as evidence produced to support the said objection.

19. Keeping in view the totality of the circumstances, no ground is made out for any interference by this Court in the present case.



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20. Accordingly, the writ petition is dismissed.

21. Civil miscellaneous application pending if any, also stands disposed of.

March 07, 2025

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No