

Industrial Tribunal not High Court to decide whether the work is of perennial nature performed by workers of a contractor.

JURISDICTION – Writ Court:- Not available till alternate efficacious statutory remedy is not exhausted – Petitioners in writ petition sought direction to respondents to treat workers engaged through contractors as their own workmen since they were performing perennial nature of work for the last three years i.e., a clear violation of Sections 7 and 12 of the Contract Labour (Regulations and Abolition) Act, 1970 – Simultaneously they have raised an industrial dispute on failure of conciliation proceedings, for adjudication – Held, writ petition cannot be entertained since the workmen have alternate efficacious statutory remedy and already raised industrial dispute for the same cause of action.

For Petitioners: Mr. Ramanandan Kumar Sinha, Mr. Nilesh Kumar Nirala, Advocates.

For Respondent (State): Mr. Rajiv Roy, GP-1, Mr. Suresh Kumar, AC to GP-1 Respondent Nos 3 to 5: Mr. Vinay Kirti Singh, Sr. Advocate, Mr. Vijay Kumar Verma, and Mr. Akhileshwar Singh, Advocates.

IMPORTANT POINTS:

- Writ petition is not maintainable if alternate efficacious statutory remedy is available and not exhausted.
- Whether the work performed by the petitioner is of perennial nature or there is violation of any statutory provisions including sections 7 and 12 of the Contract Labour (Regulation and Abolition) Act, 1970, is to be decided by raising an industrial dispute and not under writ jurisdiction.

ORAL JUDGMENT:

- ◆ The petitioners have claimed that the members of two unions have been engaged on perennial nature of work through the agencies/contractor and are working since more than three years. The respondent no. 4, vide letter dated 24.06.2013, decided for engaging workmen through the agencies/ contractor for the operation and maintenance work. Vide letter dated 19.05.2014, it directed the Electrical Executive Engineer for engaging the workmen through agencies/contractor for the operation and maintenance work in the Power Sub-Station. In this regard, an agreement was executed by the Electrical Executive Engineer with agencies.
- ◆ However, it is contended that respondent no. 4 is taking work from the workmen clear violation of Sections 7 and 12 of Contract (Labour and Abolition) Act, 1970. The wages of the workmen were not paid as per the Minimum Wages Act. Work is being taken from them in clear violation of law of ‘equal pay for equal work
- ◆ The petitioners have filed the instant writ petition for a direction upon the respondents (the principal employer) to treat all those workers, who have been engaged through contractor/agencies for perennial nature of work in the Power Distribution Company Ltd. as their own workmen considering their engagement in the light of Contract (Labour and Abolition) Act, 1970.