
2010 eGLR_HC 10005319

Before the Hon'ble MR K S JHAVERI, JUSTICE

GUJARAT NARMADA VALLEY FERTILIZER CO LTD. Vs. STATE OF GUJARAT AND 3 RESPONDENT(S)

LETTERS PATENT APPEAL No: 9122 of 1992 , Decided On: 20/07/2010

Nanavati Associates, K.P.Raval, Bharat J.Shelat

MR.JUSTICE KS JHAVERI

All these petitions involved common questions on law and facts and therefore, they are disposed of by this common judgment.

1. By way of these petitions, the petitioners have prayed to quash and set aside condition no.5 of the Licence, issued under Rule 25 of the Contract Labour (Regulation & Abolition) (Gujarat) Rules, 1972, which provide that in case the workmen employed by the Contractor perform work similar to that of workmen directly employed by the principal employer of the establishment, then such workmen shall be entitled for wage rates, leaves, hours of work & other conditions of service, as are applicable to the workmen directly employed by the principal employer of the establishment; and also to quash and set aside the order passed by the competent authority dated 30.10.1992, whereby, it was held that 7 Riggers and 2 Fitters were doing similar work, as was being done by the employees of the petitioner-Company.

2. The facts in brief are that a dispute arose between respondent no.2 Union and the Labour Contractor - M/s. Techno Engineering Works regarding equality of pay to the members of the Union in light of condition no.5 of the Licence issued under the said Rules to the said Contractor. The learned authority passed the order dated 30.03.1991 holding that 8 Riggers and 6 Fitters employed by the said Contractor performed work similar to the work performed by the employees of the petitioner. Against the said order, the petitioner preferred S.C.A. No.3186/1991 before this Court. The said petition came to be disposed of vide order dated 19.07.1991, whereby, the order dated 30.03.1991 passed by the learned authority was quashed and the concerned authority was directed to decide the matter afresh, after giving proper opportunity of hearing of all the affected parties. Pursuant to the above, the learned authority passed the impugned order dated 30.10.1992. Hence, these petitions.

3. The issue involved in these petitions is covered by a decision of the Apex Court in the case of Panki Thermal Station & Anr. v. Vidyut Mazdoor Sangathan & Ors., A.I.R. 2009 S.C.

2373, more particularly, on the observations made in Para13, which reads as under;

"13. The High Courts judgment is a bundle of confusions. In the Commissioners order there is no discussion as to how the Commissioner arrived at the conclusion about similarity of work. The Commissioner ought to have considered on the basis of pleadings and materials placed by the parties. The Commissioner was required to arrive at a conclusion that the workman had been performing the same duties as are being performed by regular employees. The Commissioners order does not reflect that these aspects were considered...."

4. In the present case, I find that the learned authority has not given any reasons, on the basis of which he has concluded that the respondentworkmen had been performing duties similar to that of the regular employees. Hence, in view of the principle laid down in the aforesaid decision, the impugned order passed by the authority cannot be sustained and deserves to be quashed and set aside.

5. Consequently, the petitions are partly allowed. The impugned order dated 30.09.1992 passed by the learned authority is quashed and set aside. Rule is made absolute to the above extent with no order as to costs.

Appeal allowed

