



AIROnline 2020 Guj 310
GUJARAT HIGH COURT
MS . SONIA GOKANI , J.

SPECIAL CIVIL APPLICATION - 711 of
1992 D/- 7 - 2 - 2020

**RASHTRIYA MAZDOOR UNION
v. HINDUSTAN PETROLEUM
CORPORATION LTD.**

**Industrial Disputes Act (14 of 1947), Sch.2
Item.6, S.10 - Regularization of service
- Petition seeking directions to authority
to regularise service of workmen working
with respondent-corporation - Workmen
were represented through Rashtriya Mazdur
Union - As those workmen have already left
Union - No cause left - Petition dismissed.**

(Para4)

Cases Referred

**Chronological
Paras**

Nanavati Associates for Respondent.

Judgement

1. ORDER :- This is a petition preferred by the Rastriya Mazdur Union under Articles 14, 19, 20, 21, 226 and 227 of the Constitution of India seeking following reliefs:

(A) This Hon'ble Court may be pleased to call for the records and proceedings of the Reference (ITC) No.31/89 between Hindustan Petroleum Corporation Ltd. and the workmen employed under it, decided by Shri H.R.Kamodia, Presiding Officer of the Industrial Tribunal (Central) at Ahmedabad, on 10th October, 1991;

(B) A writ of certiorari or a writ in the nature of certiorari, or any other appropriate writ, order or direction may kindly be granted quashing

and setting aside the award passed by Shri H.R.Kamodia, Presiding Officer of the Industrial Tribunal (Central) at Ahmedabad on 10th October, 1991 and declaring the workmen shown in para1 of this petition as the casual workmen employed by the respondent and directing the respondent to regularise their service and give them same and similar kind of pay and other benefits as these given to the permanent classIV employees employed by the respondent;

(C) Pending admission, hearing and final disposal of this petitioner, an adinterim injunction restraining the respondent, its agents and servants from terminating the services of the workmen and relating their service conditions to the disadvantage of the workmen employed by the respondent on casual basis.

(D) Pending admission, hearing and final disposal of this petition, a direction may please be given to the respondent to treat the workmen employed by it on casual basis at par with the permanent classIV employees and to give them all benefits including equal pay;

(E) Pass such other and further orders as this Hon'ble Court may deem fit."

2. It emerges that aggrieved by the outcome of the Reference (ITC) No.31 of 1989 between Hindustan Petroleum Corporation and the workmen employed under it decided on 10.10.1991, The petitioner Registered Trade Union has taken up the cause of 10 workmen being aggrieved by the dismissal of the Reference. The question before the Industrial Tribunal was whether they were employees of Hindustan Petroleum Corporation Limited or they were working as casual labourer on a contractual basis with the contractor. The Court after detailed analysis of the evidence adduced by both the sides on the basis of the totality of the evidence oral as well as documentary and the circumstances on the record held

that the workmen had not proved to be the workmen employed by the Hindustan Petroleum Corporation Ltd.

3. The application was filed in this petition by these workmen to protect their service conditions seeking to restrain the respondent from terminating the services of the concerned workers. Civil Application came to be allowed against which the Hindustan Petroleum Corporation Ltd-the respondent herein challenged the same before the Division Bench of this Court in Letters Patent Appeal No.628 of 2016. This Court (Coram:Mr.Justice J.B.Pardiwala and Mr.Justice V.B.Mayani) passed the following order:

5. On 18.07.2016, a Coordinate Bench of this Court passed the following order:

" Notice returnable on 22.8.2016. Till then,there shall be stay on enforcement of the directions issued in the order of the learned Single Judge dated 14/16.6.2016 passed in Special Civil Application No.11983 of 2014."

6. It appears that way back in the year 2016, the impugned order passed by the learned Single Judge was ordered to be stayed from its operation, implementation and execution. It has remained stayed till this date.

7. As noted above, none appears on behalf of the respondent.

8. In such circumstances, the ends of justice would be met if we request the learned Single Judge to take up the Special Civil Application No.711 of 1992 for final hearing.

9. As there is no opposition at the end of the respondent and the impugned order has remained stayed passed almost three years and the impugned order has been passed pending the final disposal of the main matter, we quash and set aside the impugned order.

10.The Registry shall notify the Special Civil Application No.711 of 992 for final hearing before the court concerned at the earliest. Since this litigation is of the year 1992 and it arises from industrial disputes, we request the learned Single Judge to give some priority to the main matter.

11. With the above, this appeal is disposed of. The connected Civil Application (for stay) No.1 of 2016 also stands disposed of."

4. The matter has been taken up as the office had placed a note on 05.11.2019. Before that, this Court (Coram:Mr.Justice G.R.Udwani), in wake of the communication made by learned counsel, Mr.P.H.Pathak to the Registrar of this Court expressing his inability to assist the Court and for his having returned the relevant papers to the respective parties, issued notice. It appears that the matter today when has been taken up for hearing, the notice which has been served by this Court has already been served duly, no one appears for the petitioner Rashtriya Mazdur Union. Ordinarily, since the said Union is also being represented by the learned advocate, Mr.Mankad, the Court may make a request to verify and appear so that the matter can be proceeded. However, he shows his inability to defend those workers as they have already left the Union and therefore, the Rashtriya Mazdur Union can no longer take up the cause. There is no individual address of these parties. The only address is of the Rashtriya Mazdur Union which continued to take up the cause of these persons, which chooses not to prosecute further.

5. Resultantly, this petition shall need to be dismissed and is dismissed accordingly.

Petition Dismissed .