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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CM (M) 659/2022 & CM APPL. 30585/2022, CM APPL. 30586/2022

FOOD CORPORATION OF INDIA ..... Petitioner
Through: Mr. Neeraj Malhotra, Sr. Adv. with Mr. Om Prakash, Ms. Shivangini Sharma and Mr. Nimish Kumar, Advs.

versus

FCI SHRAMIK SANGH THROUGH ITS GENERAL SECRETARY ..... Respondent
Through: Mr. Ankur Yadav and Mr. Shashank Shekhar, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (ORAL)

% 13.07.2022

1. This petition, under Article 227 of the Constitution of India, assails order dated 22nd February, 2022, passed by the learned Central Government Industrial Tribunal (CGIT) in LCA 02/2019, under Section 33C(3) of the Industrial Tribunal Act, 1947 ("the ID Act") read with Rule 63 of the Industrial Disputes Central Rule, 1957 ("the ID Rules").

2. A brief history of the dispute is necessary.

3. The services of 200 workmen, engaged with the Jwalapur Depot of the Food Corporation of India ("the FCI"), were discontinued. The

workmen raised an industrial dispute. The dispute was referred to the Industrial Tribunal, by the Ministry of Labour & Employment, on 8th June 2006. The terms of the reference read thus:

> "Whether the demand of Food Corporation of India Shramik Sangh Uttaranchal is just and legal to declare that the workers Shri Rajbir Singh, S/o Shri Hodil Singh and 199 others were employed at Food Corporation of India Depot, Jwalapur since 1996-97 continuously and were also engaged by the management of Jwalapur under Direct Payment System during the period 10.07.2003 to 28.10.2004 and thereafter their discontinuation/termination from service by the management of FCI in violation of Section 25(O) of the ID Act, 1947 it is illegal and unjustified? If so, to what relief the concerned workmen are entitled to"

4. The reference was adjudicated by the learned CGIT *vide* Award dated 29th February, 2016 in the ID Case No. 192/2011.

5. Para 45 of the Award, which constitutes the operative portion thereof, reads thus:

> "As a sequel to my discussion made hereinabove, it is held that the workmen herein Shri Rajbir Singh and 199 others were employed by Food Corporation of India Depot at Jawalapur and they have not received their salary/wages for the period from 10.07.2003 to 28.10.2004 under direct payment system and thereafter their discontinuation/termination from service is also held to be illegal and justified as the same is in violation of provisions of Section 25(O) of the ID Act. Since the Depot at Jawalapur is stated to be closed since 2004, as such, FCI would be at liberty to engage the workmen herein willing to work at a nearby place like Rourkee, Shrinagar, Haridwar etc. as the management thinks fit. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for

publication."

6. The aforesaid award dated 29th February, 2016 of the learned CGIT was assailed by the FCI before the High Court of Uttarakhand by way of WP (MS) No. 1469/2016. This petition was dismissed by the High Court of Uttarakhand *vide* order dated 28th October, 2016. The FCI applied for review of the said decision *vide* MCC No. 853/2016, which was also dismissed by the High Court of Uttarakhand *vide* order dated 19th December, 2016. FCI carried the matter further to the Supreme Court by way of SLP (C) No. 9778/2017, which was dismissed, in *limine*, by the Supreme Court *vide* the following order dated 3rd April, 2017:

> "Upon hearing the counsel the court made the following
>
> ORDER
>
> Delay condoned.
>
> We do not find any merit in these petitions. The special leave petitions are, accordingly, dismissed.
>
> Pending applications, if any, stand disposed of."

7. FCI, thereafter, started an exercise of verification of the workmen to whom benefits were to be given in terms of the aforesaid award dated 29th February, 2016 of the learned CGIT. Towards this exercise, a public notice was issued by FCI on 13th/14th December 2017, calling for the details from the workmen.

8. It is submitted by Mr. Malhotra, learned Senior Counsel for the petitioner-FCI that the documents were scrutinized by a four member

committee of the FCI, which allegedly found that the entitlement of several of the workmen seeking the benefit of the aforesaid award appeared to be in jeopardy. This aspect, however, does not concern me in the present case.

9. The respondent workmen filed MCC No. 626/2018, seeking a modification of the order dated 28th October 2016 passed by the High Court of Uttarakhand, and seeking issuance of a direction to the petitioner-FCI to comply with the award dated 29th February 2016 of the learned CGIT without any inquiry or further delay.

10. This application was allowed by a learned Single Judge of the High Court of Uttarakhand on 1st June 2018.

11. The FCI filed a Recall Application being No. 1385/2018 seeking recall of the aforesaid order dated 1st June 2018. This application was allowed by the another learned Single Judge of the High Court of Uttarakhand *vide* order dated 25th March 2019, to which Mr. Malhotra, learned Senior Counsel for the petitioner has drawn my attention.

12. Paras 18 and 19 of the judgment of the High Court in Recall Application No. 1385/2018 read thus:

> "18. For the forgoing reasons, I am of the view that learned Judge has exceeded its jurisdiction upon hearing the modification application to make observations and directing the Corporation to implement the Award, as it is, without seeking any further details from the workmen. Such direction issued by the co-ordinate bench of this Court on a

modification application is absolutely without jurisdiction. Thus the order dated 01.06.2018 being without jurisdiction is liable to be recalled. The same is hereby recalled.

19. Consequently, recall. application is allowed. Modification application MCC no. 626 of 2018 stands rejected."

13. The petitioner, thereafter, issued a second public notice, dated 17th June 2019, calling for details from the workmen.

14. The respondents-workmen, in the interregnum, moved the learned CGIT *vide* LCA No. 02/2019, seeking execution of the award dated 29th February 2016. The impugned order dated 22nd February 2022 has been passed by the learned CGIT during the course of proceedings in the said LCA 02/2019, which reads as under:

"22.02.2022:

Present: Shri M C Pant, Ld. AIR for the workman.
Shri Om Prakash, Ld. AIR. for the management

The matter was taken up through VC when the Ld. AIR for both the parties addressed their argument. On the previous date the Ld. AIR for the management wanted time to got instruction from the management with regard to the steps taken for identifying the workmen eligible for the benefit. Today during course of argument the Ld. AIR for the management pointed out that a chart has been filed before the tribunal indicating the discrepancies with regard to the identity of the workmen claiming benefit under this proceeding. He pointed out that in many cases there is discrepancies in the name appearing in the CGIT List and the identity card (Adhar Card). There are also discrepancies with regard to the fathers name appearing in the CGIT list and Adhar Card. There are also instances where the claimants were below 18 years of age in 1996 in which the claim started. The Ld. AR for the claimant workmen disputed the

stand taken by the management. Since, the dispute cannot be resolved without examining the documents (Adhar Card) of the claimants individually it is felt proper to appoint a commissioner to hold an inquiry who shall after taking such evidence as may be necessary submit a report with regard to the name, age and fathers name of the individual claimant of this proceeding indicating if the said details tally with the list of the CGIT.

Hence in exercise of power U/S 33C (3) of the Id Act read with Rule 63 of the ID (Central) Rules 1957 the Assistant Labour Commissioner (Central) Dehradun is appointed as the commissioner for holding the inquiry as indicated above after serving notice on both the parties of the proceeding and submit a report to this tribunal within 3 months from the date of receipt of this order for further action at this end.

The office is directed to sent a copy of this order alongwith the copy of the petition filed by the claimants and reply filed by the management. As an abundant caution, the claimant and the management be noticed by this tribunal to appear before the Assistant Labour Commissioner Dehradun on 15th June 2022 for the purpose of inquiry.

Sd/-
22/2/2022
Presiding Officer
22/02/2022"

15. The present petition, under Article 227 of the Constitution of India, assails the afore-extracted order dated 22nd February 2022, passed by the learned CGIT to the extent it appoints the Assistant Labour Commissioner (Central), Dehradun as a Commissioner under Section 33C (3) of the ID Act read with Rule 63 of the ID Rules, for holding an inquiry as indicated in the order.

16. The terms of the Commission, as appointed by the learned CGIT, are apparent from the afore-extracted order. The Commission has been appointed to examine the documents of the claimants

individually and, for this purpose, has been directed by the learned CGIT "to hold an inquiry and after taking such evidence as may be necessary submit a report with regard to the name, age and fathers name of the individual claimant of this proceeding indicating if the said details tally with the list of the CGIT".

17. Mr. Malhotra, learned Senior Counsel for the petitioner, assails the decision of the learned CGIT to appoint the Commission under Section 33C (3) of the Act on three principal grounds. These are (i) that the learned CGIT did not possess the jurisdiction to appoint the Commission for the said purpose, as Section 33C(3) permits appointment of a Commission only "for the purposes of computing the money value of a benefit", (ii) the decision to appoint the Commission, as taken by the learned CGIT, was in the teeth of the order dated 25th March 2019 of the High Court of Uttarakhand whereby Recall Application No. 1385/2018 was allowed and (iii) the exercise that the learned CGIT proposes to conduct would result in a parallel proceeding for verification of the details of the workmen who are entitled to the benefit of the Award dated 29th February 2016, whereas these details already stand verified by the four member committee of FCI and a report in that regard has been tendered to the learned CGIT.

18. To my mind, none of these submissions can merit interference with the impugned direction and are, *ex facie*, lacking in merit.

19. The first submission of Mr. Malhotra is that the appointment of

the commission by the learned CGIT, as has been taken *vide* the impugned order dated 22nd February 2022, infracts Section 33C (3) of the ID Act.

20. Sub-sections (1), (2) and (3) of Section 33C of the ID Act may, in this context, be reproduced thus:

> "**33C. Recovery of money due from an employer. —**
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> (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of [3][Chapter VA or Chapter VB], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:
>
> Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:
>
> Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.
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> (2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the

> appropriate Government; within a period not exceeding three months:
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> Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.
>
> (3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the commissioner and other circumstances of the case."

21. Mr. Malhotra submits that the power to appoint the Commission is circumscribed by the opening words of Section 33C (3), which read "for the purposes of computing the money value of a benefit". Mr. Malhotra's contention is that, if the learned CGIT deemed it necessary to appoint a Commission to compute the amount payable to the workmen in terms of the award, it could have done so. He, however, faults the learned CGIT for having appointed the Commission for verifying the details of the workmen who are entitled to the benefit of the award. That exercise, he submits, is outside the purview of Section 33C (3) of the ID Act and, consequently, no Commission could have been appointed for such verification.

22. These submissions, in my view, espouse an unduly truncated understanding of the opening words of sub-Section (3) of Section 33C the ID Act.

23. In ***Indian Chamber of Commerce v. CIT West Bengal II,***

Calcutta[1], the Supreme Court has, on the scope and ambit of the word "for", when used in conjunction with the active participle of a verb, held thus:

> "'For' used with the active participle of a verb means 'for the purpose of. 'For' has many shades of meaning. It connotes the end with reference to which anything is done. It also bears the sense of 'appropriate' or 'adapted to'; 'suitable to purpose'"

24. In a similar vein, the High Court of Madhya Pradesh has, in ***Chaitram Verma v. Land Acquisition Officer, Raipur***[2]**,** on the ambit of the expression "for" held thus:

> "The word "for" is used a function or to indicate purpose or any intended destination or the object towards which the acquisition is directed. Dictionary meaning of the word "for" is "intended to", "belonging to" or "is used in connection with" or "suiting the purpose or need of". These meanings give a wide scope to the word "for" and hence words "for a company" would mean "for the purpose or need of a company". It is well established rule of interpretation that an otherwise clear and unambiguous language of a statute will not be interpreted restrictively only because its meaning does not suit a particular factual situation. The literal grammatical meaning of the words "for a company" which includes "for the purpose of the provision nor otherwise unjust or unfair so as to prompt this Court to make an effort to interpret it in a restricted manner."

25. The word "for", with which the expression "for the purposes of computing the money value of a benefit" is, therefore, to be given an expansive and not a restrictive, interpretation. *All inquiries which have a relation to or are in any manner connected with computing of the money value of the benefit which flows under an industrial award would, therefore, be envisaged as coming under the scope of Section*

[1] **AIR 1976 SC 348**
[2] **AIR 1994 MP 74**

33C (3) of the ID Act.

26. The money value of the benefit is not to be given in *vacuo*, or ethereally, but enures to the benefit of the workmen who are beneficiaries of the industrial award. It is not possible, therefore, to dichotomise the value of the money which has to be paid and the workmen who would be entitled to such money. Any inquiry into the money value of the benefit which has to be paid under an industrial award would also, therefore, encompass an inquiry into the persons who would be entitled to the benefit of such money payment. Any such inquiry, therefore, would also in my view be covered by the expression "for the purposes of computing a money value of a benefit".

27. I am not, therefore, in agreement with Mr. Malhotra's submission that the learned CGIT exceeded its jurisdiction under Section 33C (3) in appointing a Commission to inquire into the details of the workmen who were seeking benefit under the Award dated 29th February 2016.

28. The second submission of Mr. Malhotra is that the appointment of the Commission by the learned CGIT flies in the face of the order dated 25th March 2019, passed by the High Court of Uttarakhand, while allowing Recall Application 1385/2018. This submission has only to be made to be rejected. The High Court of Uttarakhand has, while allowing the Recall Application, merely recalled the order dated 1st June 2018, whereby the prayer of the workmen, to be disbursed the

benefits of the award dated 29th February 2016 without any inquiry, was allowed. Resultantly, all that the High Court of Uttarakhand has done, while passing the order dated 25th March 2019, is to clarify that the FCI is entitled to carry out an inquiry before disbursing the benefits to the workmen. That cannot, by the farthest stretch of imagination, be treated as an interdiction on the CGIT carrying out any inquiry on its own account, before deciding the Execution Application filed by the Workmen.

29. In fact, the exercise being conducted by the CGIT is wholesome and deserves to be appreciated.

30. The learned CGIT has clearly balanced the interests of the FCI and the workmen and has appointed the commission only because of the submission, of FCI, that several workmen were found to be disentitled to the benefits of the award.

31. It goes without saying that the submissions made by FCI before the learned CGIT on 22nd February 2022 cannot be merely accepted at their face value, nor can an order be passed in that regard by the learned CGIT, without any further inquiry into the matter. Nor does any of the orders passed by High Court of Uttarakhand so direct.

32. FCI, therefore, cannot seek to contend that the report of the committee appointed by it to enquire into the claims of the workmen must be treated as gospel truth, and that the learned CGIT is not entitled to carry out any inquiry on its own account before deciding on the execution application filed by the workmen. If, therefore, the

learned CGIT deemed it appropriate to inquire into the claims of the workmen by ascertaining their individual entitlements to the benefit of the award dated 29th February 2016, no exception, whatsoever, can be taken to the said decision.

33. Section 33C (3) does not, in any manner of speaking, make the report of the commission appointed by the learned CGIT binding by itself. If the FCI has any objection to the report of the commission appointed by the learned CGIT, it would be within its right to ventilate such objection. Equally, if the respondent-workmen have any objection to the report of the Commission appointed by FCI, they would also be within their right in raising all such objections. It would be for the learned CGIT to hear all parties, examine the record and take a decision as deemed appropriate, so as to ensure that the benefit of the Award dated 29th February 2016 of the learned CGIT is appropriately implemented and all who are entitled thereto, duly receive its benefits.

34. This observation answers the third objection of Mr. Malhotra, which is that, by appointing the Commission, the learned CGIT has initiated a parallel proceeding. There is no such parallel proceeding that the learned CGIT has initiated. Appointment of a Commission by a judicial authority is an exercise which is undertaken day in and day out by judicial authorities throughout the country. It is within the province of the jurisdiction of every judicial authority to make all efforts to ascertain the true state of facts before taking a decision on the *lis* before it.

35. By appointing a Commission to examine the submissions urged before it by the FCI, therefore, the learned CGIT has not, in any manner of speaking, initiated any parallel proceeding.

36. For all these reasons, I do not find that the impugned order dated 22nd February 2022, passed by the learned CGIT, suffers from any jurisdictional error or any other infirmity, as would justify interference with the said order under Article 227 of the Constitution of India.

37. The petition is accordingly dismissed in *limine*, with no order as to costs.

C. HARI SHANKAR, J.

JULY 13, 2022
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