

(2004) 06 JH CK 0022

Jharkhand High Court

Case No: Writ Petition (L) No. 2947 of 2002

Central Coal Fields Ltd.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: June 26, 2004

Acts Referred:

- Industrial Disputes Act, 1947 - Section 10

Citation: (2004) 165 ELT 282 : (2004) 102 FLR 1205 : (2004) 3 JCR 377

Hon'ble Judges: Amareshwar Sahay, J

Bench: Single Bench

Advocate: Ananda Sen, Sanjay Piprewal, for the Appellant; A.K. Sahani, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Amareshwar Sahay, J.

Heard the parties.

2. The respondent No. 3 herein, i.e. the General Secretary, Rashtriya Washery Mazdoor Sangh, had filed CWJC No. 3488/ 1998 (R) before this Court for direction to the concerned respondents to refer the dispute arising in view of inaction of the Management of M/s. Central Coalfields Limited denying absorption the members of the petitioners union, working in Swang, Kathara and Kargali collieries. This Court disposed of the said writ petition on 17.2.1999 giving liberty to the writ petitioners to approach the concerned respondents, who will consider the matter and pass an appropriate order on filing of such application by the petitioner. The said order has been annexed as Annexure-2 to the writ application.

3. Pursuant thereto, on the application of the aforesaid Rashtriya Washery Mazdoor Sangh, the Central Government by issue of Annexure-1, dated 19.3.1999, in exercise of powers u/s 10 of the Industrial Dispute Act referred the aforesaid dispute to the

Central Government Industrial Tribunal for adjudication. From the said reference dated 19.3.1999, Annexure-1 it appears that the Central Government took not of the facts that earlier also with regard to the same issue raised on behalf of 317 workmen of Swang Colliery the dispute was referred by the Central Government for adjudication vide reference dated 27.6.1992. Similarly, with regard to 140 workmen of Kathara Colliery vide reference dated 12.8.1992, the dispute was referred for adjudication and further by reference dated 7.2.1997, the dispute with regard to 427 workmen of Kargali Coal Washery was referred for adjudication. By the said order of reference dated 19.3.1999 the Central Government directed that the earlier disputes, which were referred, i.e. reference case Nos. 77/92, 46/92 and 47/97 shall be treated as amalgamated with present dispute which was referred vide Annexure-1.

4. The management of Central Coalfields Limited has challenged the said order of reference by the Central Government dated 19.3.1999, mainly on the ground that no such dispute was ever raised before the Assistant Labour Commissioner (Central) nor at any point of time, conciliation proceeding was initiated nor there was any failure report and, therefore, the said reference is bad in law and that order of amalgamation of all three disputes, which were referred earlier with the present reference was also bad in law.

5. From the averments made in the writ application, the documents annexed therein and the counter affidavit of the respondents the following facts emerges :

6. Firstly, that with regard to the absorption of the contractor workers earlier also three disputes were referred for adjudication regarding Swang, Kathara and Kargali Coal Washeries and the present dispute is also with regard to other 1921 workmen working under contractor in the aforesaid three Coal Washeries for their absorption.

7. Secondly, that the dispute referred earlier in the year 1992 and 1997 by the Central Government have already been taken up by the Tribunal and the reference case No. 77/92 and reference case No. 46/ 92 have already been concluded and now only the award has to be declared by the Tribunal in the aforesaid references.

8. Thirdly, that in the present dispute, which has been referred vide Annexure-1, i.e. reference case No. 251/2001, the Management has already filed written statement on 21.3.2002, i.e. before filing of the present writ application and the Industrial Tribunal is already in seisin of the said reference case.

9. Therefore, from the facts stated above, it is evident that the dispute which has been presently referred by the Central Government vide Annexure-1 dated 19.3.1999, is not a new dispute but is the same dispute regarding which the Central Government has already referred the disputes and the Tribunal has taken up the matter in Reference Case No. 77/92 and Reference Case No. 46/92, therefore, the contention of the petitioner that there is no dispute at all for reference or that the dispute was never raised earlier is devoid of any merit.

10. However, since the earlier similar disputes referred by the Central Government which were registered as reference case Nos. 77/92 and 46/92 in which the hearing has already been concluded by the Industrial Tribunal and, therefore, in my view the amalgamation of the present reference with those two reference of the years 1992 bearing reference case Nos. 77/92 and 46/92 is not justified because the present reference case No. 251/01 is at its initial stage of adjudication whereas those aforesaid two reference cases, the hearing has already been concluded and only award has to be declared by the Tribunal and, therefore, the second part of the order dated 19.3.1999, whereby the order for amalgamation has been passed if is allowed to stand it will unnecessary delay the disposal of the two old reference case Nos. 77/92 and 46/92.

11. Considering the facts and circumstances of the present case and the submissions, made on behalf of the parties, the prayer of the petitioner for quashing of the reference dated 19.3.1999, made by the Central Government vide Annexure-1 is rejected.

12. But the second part of the order regarding amalgamation of reference Case Nos. 77/92 and 46/92 and with the present reference contained in Annexure-1 is hereby quashed. The Tribunal is directed to proceed with the present reference Case No. 251/01 expeditiously and is directed to dispose of the same as expeditiously as possible preferably within a period of one year. The Tribunal is further directed to dispose of the Reference Case Nos. 77/92 and 46/92, if not already disposed of, within a period of three months from the date of receipt/production of a copy of this order.

With the above observation and direction, this application is allowed in part.