PETITIONER:
R.K. PANDA & ORS.

Vs.

RESPONDENT:
STEEL AUTHORITY OF INDIA & ORS.

DATE OF JUDGMENT: 13/09/2000

BENCH:
S. RAJENDRA BABU, J. & D.P. MOHAPATRA, J.

JUDGMENT:

J U D G M E N T
RAJENDRA BABU, J. :

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Writ Petition (C) No. 617 of 1986 was filed on the allegation that the petitioners were continuing in employment for periods ranging from 10 to 20 years under different contractors and they are contract labourers. The contractors, though used to be changed, had to employ the workers of the predecessor contractors subject to the requirement of the job being a condition of the term of the contract and they were discharging jobs which are perennial in nature and identical to the jobs which are being done by the regular employees of the respondent. Therefore, it was urged that they were entitled to be paid the same wages as regular employees and ought to be treated similarly. It was only to defeat their claims and other labourers similarly situated that they were being designated as contract labourers. These matters were examined by this Court at length and by an order made on May 12, 1994 the Court directed absorption in the employment of the respondent of labourers who have been initially engaged through contractors but have been continuously working with the respondent for the last 10 years on different jobs assigned to them in spite of replacement or change of contractors subject to their being found medically fit and they are below 58 years of age with certain other incidental reliefs. It was made clear that this direction shall be operated only in respect of 142 jobs out of 246 jobs in view of the fact that contract labour for 104 jobs had been abolished. In the course of the said order this Court also noticed that normally it would not exercise its jurisdiction under Article 32 or Article 136 of the Constitution, but relegate the parties to remedies available under Industrial Disputes Act. However, certain extraordinary circumstances were noticed by this Court and, therefore, the aforesaid relief was granted. The aforesaid directions were given after noticing that contract labourers had been employed in 246 jobs in the steel plant, out of which 104 jobs have been identified in which contract labour has been abolished, while in 142 jobs the contract labour is still continuing and the contract labourers who might have ceased to be working with the respondent are continuing by different interim orders of the court and in respect of such employees an order was made by the Court on 6.8.1992 to the following effect :-

Mr. Harish Salve learned counsel appearing for the respondent states that there are 879 workmen holding notified jobs with the management. According to him the management is prepared to give options to all of them either to accept voluntary retirement on the terms offered by the management or agree to be absorbed on the regular basis in the employment of the respondent-management. The offer made by Mr. Salve is fair and is acceptable to the learned counsel for the petitioner. We, therefore, modify the interim orders passed by this Court till date to the extent that we permit the respondent- management to give the offered options to all the notified workmen.

Now in these proceedings an application is made to the Court by 104 workmen seeking a direction to take them back in regular employment with effect from 1.10.1992 or 1.4.1993, that is, the date from which other workmen were regularised pursuant to the order made on 6.8.1992 or on 31.12.1994. The applicants allege that:

a) 104 workmen who were employed through contractors in miscellaneous and petty jobs in the Fertilizer Plant and the guarding job in Steel Township who were continuously working since the 1970s have been thrown out of employment from 31.12.1996 and are on the streets since them awaiting justice.

b) That this has been despite the fact that it was known to the Management that the contract labour in these jobs had been abolished vide notification dated 30.3.1989. Only there was some mistake in the nomenclature of these jobs though it was well known to the Management as to which workmen were identified.

c) That despite the undertaking of the Management to offer regular employment of the workmen involved in these 104 jobs, these 104 workmen worked in those jobs were not offered employment. Even after this Honble Courts judgment that those workmen who have been working continuously for 10 years as contract labours will be absorbed, these workmen were not absorbed and have been retrenched on 31.12.1996 even though they have been working for more than 15 years.

d) That it has been found very clearly and categorically by the State Contract Labour Advisory Board that the Management had terminated the services of these workmen for malafide reasons and has employed new workmen under different contractors for doing the same job. This was done even after the Management knew full well that this notification regarding the nomenclature of these jobs was going to be amended.

e) That the workmen have not been taken back despite the latest notification of 17.12.98 amending the original nomenclature for these jobs and clearly identifying the jobs.

Their claim is that they are workmen in notified jobs Nos. 79, 80, 81 and 103 of the notification abolishing the@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ contract labour issued on 30.3.1989 and amended on@@ JJJJJJJJJJJJJJJ

17.12.1998. In the notification dated 30.3.1989 jobs at serial Nos. 79, 80 and 81 were showed to be Cleaning and serial No. 103 Survey Work. On the basis of the report made by the Deputy Labour Commissioner that there are no such jobs in existence during the relevant time of the issuance of the Government notification issued under Section 10(1) of the Contract Labour (Regulation and Abolition) Act, 1970, an amendment was made by a notification issued on May 9, 1995 modifying the description of jobs as aforesaid. Thereafter on December 17, 1998 yet another notification was issued to the same effect pursuant to a report made by the State Advisory Contract Labour Board.

When the matter was pending before this Court several directions have been given by this Court including the one made on 6.8.1992 to which we have adverted to wherein 879 workmen holding notified jobs were given the option either to take voluntary retirement or to get absorbed on regular basis. However, the matter was finally disposed of by making it clear that the direction issued in the case will be applicable only in respect of 142 jobs out of 246 jobs in view of the fact that contract labour has been abolished in respect of 104 jobs. Cause of action, if any, for the petitioner has arisen by their alleged retrenchment made on 31.12.1996. In the circumstances, particularly when in respect of certain employees, industrial dispute had also been raised and a settlement had been reached pursuant to which an award is made, if the applicants were aggrieved they should have adopted that course as indicated by this Court to be the normal course and what other employees have adopted in the Industrial Dispute Case No. 16 of 1996. Therefore, we think that it would not be appropriate to allow this application, but it is made clear that it is appropriate for the applicants to work out their remedies if available under relevant labour enactments or otherwise, if any. The application stands accordingly rejected.