

Id No. 180/2021

18/11/2022

Present:- Shri Anuj Agarwal, Ld. A/R for workman with the claimant.

Shri Vinay Sabarwal A/R
None for the management.
Dec

This order deals with the application filed by the claimant invoking the provisions of section 11(3) of the ID Act. Copy of the petition being served the management Indian Statistical Institute filed a written objection to the said petition. Matter was argued at length by the counsel for both the parties.

The claim has been filed by the claimants pursuant to their reference received from the appropriate government to decide whether the demand of the claimants for regularization of service and equal pay for equal work is legal and justified. The management filed written statement denying the employer and employee relationship. The management has also stated that the claimants were employed by a contractor in the premises of the management and the said contractor has been described as respondent No.3 in the claim petition.

In the present application filed by the claimants it has been prayed that the management has issued advertisement for different category of posts including the post against which the claimants are working. An interim direction is required to be issued to the management not to advertise the posts against which the claimants are working or to keep 25 posts of different category in which the claimant are working vacant till adjudication of this proceeding. The claimants in the petition have expressed apprehension that the management in order to harass the claimants is going ahead with the selection procedure. The evidence of the parties are yet to begin. At this juncture if the posts would be filled up, the prayer of the claimants for regularization shall be infructuous.

It is the specific stand of the management No.1 and 2 that the claimants are the employees of the contractor and there exists no employer and employee relationship between them. Moreover, the posts against which they are claiming to be working do not correspond to any post advertised by the management. They being the employees of the contractor cannot seek a direction against the management no.1 and 2 for keeping the posts vacant. The Ld. A/R for the management further argued that the tribunal has no power to grant such an interim relief.

This is a reference received from the government for adjudication if the demand of the claimants for regularization of service and equal pay for equal work is legal and justified. There is no mention about the contractor in the reference and as such the contractor is not a party in this proceeding though the claimants have



added the contractor as respondent No.3 in the claim petition. This dispute pertains to the claim of regularization which ultimately touches upon the employer and employee relationship. It is not disputed that the claimants are working in the premises of the management No.1 and 2 and the management has issued advertisement for filing up the posts against which these claimants are allegedly working. If those posts are filled up during the pendency of this proceeding certainly the relief sought for would become illusory.

So far as the power of this tribunal with regard to grant of interim relief is concerned, admittedly there is no distinct provision for grant of said interim relief during the pendency of the proceeding. But considering the circumstances of an individual case the interim relief can be granted as incidental to the dispute for adjudication as has been held in the case of **Hotel Imperial vs. Hotel Workers Union reported in 1959 LLJ(2)554** and in the case of **Lokmat Newspapers Pvt. Ltd. vs. Shankar Prasad reported in (1999) 6SCC 275**. The same view has also been taken by the Hon'ble High Court of Bombay in the case of **ONGC vs. Transport And Duck workers Union and others reported in 2007(2)LLN 817**. Thus considering the apprehension expressed by the claimants and in order to prevent the litigation from becoming infractous, it is felt just and proper to direct the management No.1 and 2 to maintain status quo in respect of the advertisement issued for filing up the post having similar nature of work as discharged by the claimants till disposal of the Industrial dispute. The application for interim relief is accordingly allowed. Call the matter on 19/1/22 For framing of issues.



CERTIFIED COPY

Locality
18/11/2022
Presiding Officer
18/11/2022

for 21/11/2022

Secy. to the Court
CGIT Cum Labour Court-II
Room No. 208, Second Floor,
Rouse Avenue District Court Complex,
New Delhi-110002