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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 263/2023**
GOVIND SINGH BIST Petitioner

Through: Mr. Ankur Yadav and Mr. Shankar
Shekhar, Advs.

versus

**MR. PEET VASAN BIHARTI , GENERAL MANAGER, ONGC
HOSPITAL, DEHRADUN, UTTARAKHAND AND ANR.**

..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. S.
Sirish Kumar, Mr. Amit Gupta, Mr.
Sambhav Tripathi, Mr. Vikramaditya
Singh and Mr. Nirbhay Singh, Advs.

+ **W.P.(C) 2644/2023 & CM APPL. 10195/2023**
OIL AND NATURAL GAS CORPORATION LTD.

..... Petitioner

Through: Mr. Chetan Sharma, ASG with Mr. S.
Sirish Kumar, Mr. Amit Gupta, Mr.
Sambhav Tripathi, Mr. Vikramaditya
Singh and Mr. Nirbhay Singh, Advs.

versus

**GOVIND SINGH BHISHT, STATE SECRETARY, BHARTIYA
MAZDOOR SANGH** Respondent

Through: Mr. Ankur Yadav and Mr. Shankar
Shekhar, Advs.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
28.11.2023

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1. The issue in question at this stage relates to lack of compliance by the respondent/management with the order dated 27th January, 2022 in W.P.(C)



8597/2019 passed by this Court. The said order had been passed in context of an interim order passed by the CGIT dated 29th November, 2018 directing the respondent/management to pay the petitioners/workers remuneration and additional emoluments at par with persons having regular employment and discharging similar nature of work from succeeding calendar month of that order till final disposal of the proceeding, as also reserving the right to recover in case the workers would not succeed to establish their claims.

2. This Court in para 11 of the order dated 27th January, 2022 noted as under:-

“11. In the meantime, since the Employer's own case is that the Workers would have to be paid in terms of the Office Order (30/2021) dated 16th August, 2021, the payments to the Workers, after deducting the payments already made, shall be made by the Employer in terms of the interim order of the CGIT dated 29th November, 2018, on the basis of the Office Orders applicable during the relevant period, till further orders of the CGIT. It is made clear that the outstanding dues of the Workers till date, shall be paid within six weeks from now, with effect from the date of the interim order passed by the CGIT, i.e., 29th November, 2018. All such payments shall be subject to the outcome of the final adjudication by the CGIT, in respect of the claims of the Workers.”

3. Thereafter, CM APPL. 13560/2022 was filed for clarification of the said order by the workers. The grievance in the said clarification application was that payment had not been made in terms of the above noted para 11 of the order dated 27th January, 2022.

4. *Vide* order dated 19th May, 2022, this Court directed the respondent/management to place on record details of the entitlement and listed the matter for 13th July, 2022. On that day, since compliance was not made by the respondent/management of the previous order, another



opportunity was given subject to payment of costs of Rs.10,000/-. It was also directed that the deponent of the affidavit on behalf of the respondent/management shall remain present in Court on the next date of hearing. On 07th October, 2022, it was noted that the compliance affidavit had been filed and the costs had been paid, however, the final orders of the CGIT were awaited in the matter. Accordingly, this Court listed the matter on 12th December, 2022.

5. On 12th December, 2022, the Court while dealing with the clarification application (CM APPL. 13560/2022) took note of the previous order dated 27th January, 2022 as well as the final award passed. It is to be noted that the final award passed by the Ld. CGIT answered the reference in favour of the claimants and directed that the claimants would be treated as permanent employees of the ONGC with effect from the date when they completed one year of service from the initial employments and shall be paid the pay and other service benefits at par with permanent and regular paramedics appointed by ONGC from that date. Further directions were also passed as per the final award. It was noted as under in para 7 of the order dated 12th December, 2022:-

“7. Thus, the ONGC is bound to comply with the order dated 27th January, 2022 read with the final award passed by the CGIT. The award passed by the CGIT is taken on record”.

6. As per the petitioners/workers, this compliance was also not made and accordingly the present Contempt Petition No.263/2022 in W.P.(C) 8597/2019 was filed on 21st February, 2023. While this contempt petition was pending before the Roster Bench, W.P.(C) 2644/2023 was filed by the respondent/management challenging the final award passed by the Ld. CGIT



dated 03rd November, 2022. The records of the said writ petition would show that the previous orders of this Court in W.P.(C) 8597/2019 were not appended to the said petition. This Court, pursuant to submissions made on behalf of the respondent/management assailing the final award, passed an order on 02nd March, 2023 issuing notice to the respondent and with directions to file counter affidavits. At that stage of issuance of notice, needless to state the workers were not represented. By the said order of 02nd March, 2023, the following direction was passed:

“8. Till the next date, though the direction to the petitioner to regularise the workmen will remain stayed, the petitioner will ensure that status quo as existing today is maintained qua the services of the workmen.”

7. The issue which arises at this stage relates to the non-compliance of the previous orders of this Court in W.P.(C) 8597/2019, namely, 27th January, 2022 and 12th December, 2022 as well as the interpretation of the order dated 02nd March, 2023 in W.P.(C) 2644/2023. It is an admitted position that as on 02nd March, 2023, the respondent/management was not paying the wages at par with the regular employees as has been directed in the interim award of the Ld. CGIT, however, they were paying wages in compliance of their Office Order dated 16th August, 2021.

8. Learned ASG appearing on behalf of the respondent/management submits that since the interim award had merged into the final award, which subsequently was stayed by order dated 02nd March, 2023, the question of complying with an earlier order of this Court on 27th January, 2022 passed when the proceedings were still interim, is not necessitated. Moreover, para 8 of order dated 02nd March, 2023 would essentially stay the final award and the *status quo* was only *qua* the services of the workers and not relating to



their wages.

9. Learned counsel for the petitioner, however, states that considering this Court *vide* order dated 27th January, 2022 passed a categorical direction to comply with the interim award and pay the said wages on parity in the meantime awaiting the final award, the said compliance ought to have been made. And this ought to be the position even when the *status quo* orders were passed 02nd March, 2023. He further states that since the said orders passed on 27th January, 2022 and 12th December, 2022 were not brought to the notice of the Court in the subsequent W.P.(C) 2644/2023, this Court did not have the opportunity to pass a specific order relating to the wages of the petitioners/workers.

10. Having perused the documents as noted above and having heard the submissions of both the parties, this Court is of the view that the *status quo* as directed on 02nd March, 2023 by this Court would essentially freeze what ought to have been done at that stage by the respondent/management, in that they ought to have complied with the order dated 27th January, 2022. They cannot extend the benefit of a *status quo* to their non-compliance

11. The order dated 27th January, 2022, in the opinion of this Court, is fairly clear and categorical, essentially directing in the interim to pay wages as per the interim award.

12. This obviously was not complied with, prompting this Court to pass subsequent directions as noted above *inter alia* calling for a compliance affidavit from the respondent/management, imposing costs, and requiring the deponent of the respondent/management's affidavit to be present in the Court.

13. Clearly, the view of this Court, at that stage, was that there was no compliance of order dated 27th January, 2022. Subsequently, this issue was



again clarified by this Court on 12th December, 2022 as per para 7 (noted above). No dilution or any clarification was sought by the respondent/management at any stage since 27th January, 2022. On the contrary, non-compliance was brought to attention by the petitioners/workers by means of the said contempt petition.

14. Moreover, considering that the interim order has culminated into a final order directing wages and service conditions at par with the regular workers, it would be not only apposite, but also in the interest of justice, that in the interim, while the W.P.(C) 2644/2023 is pending before this Court, the petitioner workers continue to be paid in terms of the interim award 29th November, 2018. This would harmonize and contextualize the *status quo* order passed on 02nd March, 2023. Also this would balance equities of the parties, particularly since the writ petition is still pending before this Court and the challenge of the respondent/management to the final award still has to be considered.

15. However, since the writ petition is still pending before this Court and notice has been issued and a stay has been granted by this Court on 02nd March, 2023, it is made clear that these directions for payment are purely in the interim and without prejudice to the respective rights and contentions of the parties.

16. No further directions are required in the said Contempt Petition No. 263/2023, considering that an issue relating to interpretation of the orders of this Court had cropped up. Contempt Petition No. 263/2023 is, therefore, disposed in terms of the directions passed above.

17. As regards W.P.(C) 2644/2023, pleadings may be completed by the parties before the next date of hearing.



18. List on 16th May, 2024.
19. Considering that the petitioners/workers have been approaching this Court on multiple occasions and compliance has not been not made by the respondent/management, it is hoped that full compliance will be made in terms of the payments to the petitioners/workers no later than four weeks from this order.
20. It is further made clear that the directions passed by the interim award dated 29th November, 2018 read with 27th January, 2022 of this Court shall be complied with in the interim as an ameliorative measure. Para 7 of the order dated 12th December, 2022 is, therefore, clarified in these terms.
21. Compliance report of payment per this order to be filed and placed on record of this Court at least 1 week before the next date of hearing. These interim directions will be subject to final orders of this Court and also reserving the right of the respondent/management to recover such dues in case they are successful in this writ petition.
22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 28, 2023/MK/sc