

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).1074 OF 2017

CHEMICAL MAZDOOR PANCHAYAT

Appellant(s)

VERSUS

INDIAN OIL CORP. LTD AND ORS

Respondent(s)

WITH

CIVIL APPEAL NO.1090 OF 2017

AND

CIVIL APPEAL NOS.1092-1180 OF 2017

O R D E R

1. Heard the learned counsel for the parties.
2. The concurrent findings of the Assistant Labour Commissioner and the Single Judge of the High Court have been set aside by the Division Bench of the High Court in a most cursory manner.
3. Firstly, on the ground that only one witness of a particular class of worker had been examined. As such, their deposition is liable to be rejected. In our opinion, it could not have been a valid ground to discard the evidentiary value of the deposition of the witnesses. It is not the number of witnesses in such kind of matters but what is material is evidentiary value and cross examination which has been made. Examination of the single witness to prove a fact may be enough in such cases. Thus, the approach of the High Court is not permissible.
4. The High Court has observed that the workers employed by the contractor cannot be compared with the employees who have worked

in Five Star Hotels. This is not a legally permissible way in which the High Court should have approached the case, particularly with respect to spirit of Rule 25(2)(v)(a) of the Contract Labour (Regulation and Abolition) Central Rules, 1971 (in short referred to as Rules). In India, there are haves and have-nots, poor workers and proletariat have equal rights. The approach of the High Court is discriminatory and impermissible classification has been made and has no co-relation with respect to equal protection as envisaged Constitutionally.

5. The distinctions made and the findings recorded by the High Court, on the basis of the source of recruitment also, is not correct. There has to be difference between the sources for recruitment even then Rule 25 of the Rules confers protection, as permanent employees has to be inducted by the employer by a different set of procedure, whereas for worker employed by contractor, the procedure of induction is bound to be different. Prima facie protection is conferred of similar wages to the employee, engaged by a contractor. The impact of specific Rule 25 of the aforesaid Rules and law in this regard has to be taken into consideration before coming to a conclusion on this aspect.

6. The qualification aspect vis-à-vis to provision, if any, in recruitment rules has also not been discussed by the High Court in its judgment. There is no consideration of the qualification prescribed for the two different sets of employees merely few employees possess ITI certificate would not make a difference. Thus, the High Court should not have given the finding in the

concluding paragraph with respect to qualifications being different without considering the qualifications prescribed for the two sets of different employees. The observation that usually the workers employed by the contractor do not possess the qualification, is based on assumption which was not warranted.

7. Similarly, with respect to the slight variations in the nature of work on the basis of who cooks which item the High Court could not have brushed aside the similarity. Often preparation of snacks is difficult than preparing regular food. There has to be a substantial difference between the nature of the work. That cannot be on the basis of items to be cooked, in the facts of the case. In case, somebody is preparing the regular food and somebody is preparing the snacks that cannot be a substantial ground so as to differentiate the nature of the work performed. Similarly, for Malis, merely the fact that grafting is done by regular Malis would not make much difference.

Thus, we set aside the order passed by the High Court and dispose of the appeals. We request the Division Bench to hear the case afresh and in accordance with law to the true spirit behind Rule 25 (2) (v) (a) of the Contract Labour (Regulation and Abolition) Central Rules, 1971 and also to go through the concurrent findings and reasonings given by the Assistant Labour Commissioner as well as the Single Judge of the High Court, then to take a fresh decision in accordance with law. Let the High Court decide the matter afresh. It is made clear that we have not decided the

case finally on merits. The parties are directed to appear before the High Court on 11.04.2017. We request the High Court to decide the matter afresh within a period of four months.

CIVIL APPEAL NOS. 1092-1180 OF 2017

We set aside the order passed by the Single Judge and request the Division Bench to take over writ application to hear the case afresh alongwith other matters so that there is consistency in decision.

.....J.
(ARUN MISHRA)

.....J.
(S. ABDUL NAZEER)

New Delhi;
MARCH 28, 2017

ITEM NO.110

COURT NO.12

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).1074/2017

CHEMICAL MAZDOOR PANCHAYAT

Appellant(s)

VERSUS

INDIAN OIL CORP. LTD AND ORS
(With interim relief and Office Report)

Respondent(s)

WITH

C.A. No. 1090/2017

C.A. No. 1092-1180/2017

(With appln(s) for permission to file additional documents and
Office Report)

Date : 28/03/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Appellant(s) Mr. J.P. Cama, Sr. Adv.
Ms. Neha Sharma, Adv.
Ms. Megha Karnwal, Adv.
Ms. Jayshree Satpute, Adv.
Mr. Anil Kumar Tandale, Adv.

Mr. Pravin H. Parekh, Adv
Mr. Vishal Prasad, Adv.
Mr. Akash Jindal, Adv.
Mr. Utkarsh, Adv.
M/s. Parekh & Co., Adv.
Ms. Neha Sharma, Adv.

For Respondent(s) Mr. Atmaram Nadkarni, ASG.
Mr. Shiv Mangal Sharma, Adv.
Mr. Santosh Rebello, Adv.
Mr. Ajit Yadav, Adv.
Mr. Jai, Adv.

Mr. Rajiv Nanda, Adv.
Ms. Sushma Verma, Adv.
Ms. Sushma Manchanda, Adv.
Mr. Amrish Kr. Sharma, Adv.
Mr. G.S. Makker, Adv.

Mr. R.P. Bhatt, Sr. Adv.
Mr. Manish R. Bhatt, Adv.

Mr. Kailash Pandey, Adv.
Mr. Ranjeet Singh, Adv.
Mr. Munjal Bhatt, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. E. C. Agrawala, Adv.

Mr. K. V. Sreekumar, Adv.
Ms. Rajkumari Banju, Adv.
Mr. Dilip Annasaheb Taur, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed
order.

(B.Parvathi)
Court Master

(Tapan Kr. Chakraborty)
Court Master

(Signed order is placed on the file)