

Present:
Mr. Justice Mohammad Bazlur Rahman
and
Mr. Justice Md. Ruhul Quddus

Writ Petition Nos. 2238-2241 of 2010

Bangladesh Forest Industries Development
Corporation

... Petitioner

-Versus-

Labour Appellate Tribunal, Dhaka and
others

... Respondents

Mr. M. A. Hai Sarker with Mrs. Mahmuda
Khatun, Advocates

... for the petitioner

No one appears for the respondents

Judgment on 19.05.2013

Md. Ruhul Quddus, J:

These writ petitions arising out of four separate judgments of same nature passed by the Labour Appellate Tribunal, Dhaka in Appeal Nos.121-124 of 2009 involving common questions of law and facts have been heard together and are being disposed of by one judgment. There was an order of analogous hearing of these writ petitions with Writ Petition Nos.1053-1056 of 2010. We have

consulted the records of those cases and have found that those are already disposed of by analogous judgment and order dated 24.01.2011 of another Division Bench.

Facts in common for disposal of the Rules are that in spite of completion of the probationary period of three months in employment, service of four tapers of the petitioner-corporation, namely, Abdul Motalleb (respondent 3 in writ petition No. 2238 of 2010), Md. Ramjan Ali (respondent 3 in writ petition No. 2239 of 2010), Md. Jashim Uddin (respondent 3 in writ petition No. 2240 of 2010), and Md. Monir Hossain (respondent 3 in writ petition No. 2241 of 2010) was not confirmed. Ultimately there was an agreement on 20.01.1997 for confirmation of their service with stipulation that who had completed four years in service would be confirmed. Following the agreement, the head office of the petitioner-corporation passed an office order being No. 44 dated 22.01.1997 to that effect. Thereafter, the management of the petitioner-corporation confirmed the service of good number of workers, but kept the respondent-workers cases pending without any valid reason. In that event they filed IRO Case Nos.50-53 of 2003 before the First Labour Court, Chittagong seeking direction for confirmation of service with back wages from 15.04.1995 and 16.05.1995 respectively.

Bangladesh Forest Industries Development Corporation (herein petitioner) contested all the IRO cases by filing separate

written statements contending, *inter alia*, that the service of the respondent-workers was not found satisfactory and they could not achieve the production target, and as such they were not entitled to be confirmed. Moreover, all of them were contractual workers for whom the Industrial Relation Ordinance was not applicable and as such the IRO cases were not maintainable.

On the aforesaid pleadings, the Labour Court framed the issues and proceeded with trial of the cases. In course of trial, the respondent-workers though exhibited some documentary evidence as exhibits 1-3, did not adduce any oral evidence. On the other hand, the petitioner-corporation examined one witness as D.W.1, but did not adduce any documentary evidence in support of its case. After conclusion of trial, the First Labour Court, Chittagong allowed all the cases in part by a common judgment and order dated 03.09.2009 directing the petitioner-corporation to take appropriate steps for their confirmation with effect from the date of passing its judgment. The Labour Court, however, did not allow the prayer of back wages and other benefits.

Being aggrieved by the said judgment and order of the Labour Court, the writ petitioner Bangladesh Forest Industries Development Corporation as appellant preferred Appeal Nos.121-124 of 2009 before the Labour Appellate Tribunal, Dhaka on the grounds taken therein.

The Labour Appellate Tribunal on initial hearing of the learned Advocate for the appellant summarily dismissed all the appeals by four separate orders all dated 18.11.2009, challenging which the petitioner-corporation moved in this Court with the present writ petitions and obtained the Rules.

We have also gone through the judgment and order dated 24.01.2011 analogously passed in the aforesaid Writ Petition Nos.1053-1056 of 2010 with three other writ petitions. The Rules involving same point of law were discharged in those cases relying on a judgment and order of the Appellate Division passed in Civil Petition for Leave to Appeal No.1205 of 2005, wherein same point of law was decided in favour of the worker.

Mr. Abdul Hai Sarker, learned Advocate for the petitioner in view of the judgment of the Appellate Division finds it difficult to assail the impugned orders. He, however, prays that the petitioner-corporation may be allowed to comply with the judgment of the Labour Court with effect from the date of delivery of the judgment by the High Court Division.

In the present case, the petitioners joined in service of the petitioner-corporation in 1995. Office order No. 44 of the petitioner-corporation was passed on 22.01.1997 with stipulation that the tapers, who had completed four years in service would be confirmed. The respondent-workers moved their respective IRO cases in 2003 and the Labour Court directed for confirmation of

their service from the date of delivery of its judgment i.e. from 03.09.2009. According to section 4 (2) of the Employment of Labour (Standing Order) Act all of the respondent-workers were entitled to be confirmed in 1995. They were not confirmed even after completion of more than 8 (eight) years in service without any break. The appellate Court, amongst others, considered this legal aspect in a precise manner and summarily dismissed all the appeals. Meanwhile more than 17 (seventeen) years have elapsed. In such a position if the date of confirmation of the workers is further extended, justice will be defeated. So, we are not inclined to entertain the prayer of the learned Advocate for the petitioner.

In the result, the Rules having no merit are discharged. The petitioner-corporation is directed to comply with the judgment and order dated 03.09.2009 passed by the First Labour Court at Chittagong in IRO Case Nos.50-53 of 2003 within four months from receipt of this judgment.

Communicate the judgment to the Labour Appellate Tribunal, Dhaka with a copy to the First Labour Court, Chittagong.

Mohammad Bazlur Rahman, J:

I agree.