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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on :- 27.01.2026.
Date of Decision :- 27 .03.2026.

\+ LPA 8/2021
PRATAP SINGH .....Appellant

Through: Mr. Parvinder Chauhan, Senior Advocate along with Mr. Nitin Jain & Mr. Madhav Aggarwal, Advocates.

versus

INDIAN OIL CORPORATION LIMITED
AND ANR .....Respondents

Through: Mr. V.N. Koura with Ms. Paramjeet Benipal, Advocates for Respondent No.1/IOCL.
Mr. Rajesh Gogna and Ms. Rebina Rai, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

1. This intra-court appeal seeks to challenge the judgment and order dated 30.01.2020 passed by the learned Single Judge whereby W.P.(C) 7645/2016 instituted by Indian Oil Corporation Limited – respondent no.1, herein challenging the order dated 10.05.2016 of the Ministry of Labour, Government of India referring the industrial dispute under Section 10(1) read with Section 10(2A) of the Industrial Disputes Act, 1945 (hereinafter referred to as the ID Act), has been allowed and the said order dated

10.05.2016 has been quashed.

2. The learned Single Judge while allowing the writ petition and quashing the order of reference dated 10.05.2016 has observed in the impugned judgment and order that in view of the earlier award dated 15.09.1989 passed by the Central Government Industrial Tribunal, New Delhi (hereinafter referred to as CGIT) in respect of the contractual workers of Mathura Refinery, a Unit of respondent no.1, no industrial dispute existed and, therefore, the order dated 10.05.2016 of the Central Government making reference in relation to the industrial dispute was bad in law.

3. Learned Single Judge in the impugned judgment and order has noted that in the earlier order dated 15.09.1989, the CGIT has held that there was no employee-employer relationship between the appellants and the respondent no.1 and that in law they were not the employees of the respondent no.1 hence the reference made by the Central Government dated 10.05.2016 could not be upheld.

4. Learned counsel for the appellant has, however, argued that the impugned judgment and order passed by the learned Single Judge is contrary to the law laid down by Hon'ble Supreme Court in ***Steel Authority of India Limited v. National Union Water Front Workers (2001) 7 SCC 1***, wherein it has been held that on issuance of a prohibition notification under Section 10(1) of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as CLRA Act) prohibiting employment of contract labour or otherwise, an industrial dispute, if brought before the industrial adjudicator by any contract labour in regard to condition of service, will have to be considered and the adjudicator will be required to consider the question as to whether the contractor has been interposed either on the

ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of establishment under a genuine contract or it is a mere ruse and camouflage to evade compliances of various other beneficial legislations so as to deprive the workers of benefit thereunder.

5. The submission on behalf of the appellants is that on account of quashing of the referral order dated 10.05.2016 by the impugned judgment and order, the industrial adjudicator has been deprived of the opportunity to consider the said question, which he was under obligation to consider in view of the law laid down by Hon'ble Supreme Court in in ***Steel Authority of India Limited*** *(supra)*. Reliance has also been placed by learned counsel for the appellants on ***D.P.Maheshwari v. Delhi Administration and Ors (1983) 4 SCC 293*** and ***Steel Authority of India Ltd. v. Union of India, (2006) 12 SCC 233***.

6. On the aforesaid counts it has been urged by learned counsel for the appellants that the learned Single Judge has completely erred in quashing the order of reference dated 10.05.2016, which has resulted in deprivation of right of the appellants of adjudication of the issue as to whether the appellants were engaged through the contractor, which is only a camouflage to evade compliances of various beneficial legislations so as to deprive the appellants of the benefit under the said provision.

7. It is also the case of the appellants that in any proceedings under Article 226 of the Constitution of India, the order of reference made by the appropriate Government under Section 10 of the ID Act, should not be interfered with by the High Court, however the learned Single Judge without appropriately addressing the said issue raised by the appellants in the

proceedings of the writ petition, has allowed the same and, therefore, the impugned judgment and order is not sustainable.

8. Per contra, learned counsel representing the respondent no.1 – Indian Oil Corporation Limited has opposed the instant appeal and has submitted that in view of the award dated 15.09.1989 passed by the CGIT, wherein it was conclusively held that there was no employee-employer relationship between the appellants and the respondent no.1, in absence of existence of any industrial dispute, the order of reference dated 10.05.2016 has rightly been set aside. It has also been argued on behalf of the respondent no.1 that the issue as to whether there was any employee-employer relationship between the appellant and the respondent no.1 stood settled by the earlier award passed by the CGIT on 15.09.1989, which was upheld by Hon'ble Supreme Court *vide* its order dated 15.02.1991 and, therefore, there was no occasion for the Central Government to have made the reference *vide* order dated 10.05.2016 and, accordingly, the judgment and order passed by the learned Single Judge does not suffer from any irregularity whatsoever, hence the appeal is liable to be dismissed.

9. The facts in brief which are relevant for the purpose of appropriately adjudicating the issue involved in this intra-court appeal are as under:-

9.1 The Oil Refinery at Mathura was commissioned by the respondent no.1 in the year 1981-82. During the construction phase of the refinery, large number of workmen were engaged by various contractors. The case of the respondent no.1 all along has been that these contract workers were engaged through contractors however in the year 1985, 48 contract workers were retrenched by the respective contractors, which led to filing of W.P.(C) 2867/1985 by Mathura Refinery Mazdoor Sangh- labour union before the

Hon'ble Supreme Court wherein a claim was put forth by them that they are the workmen of Mathura Refinery and, therefore, they ought to be permanently absorbed into the workforce of the said refinery.

9.2 W.P.(C) 2867/1985 was disposed of by Hon'ble Supreme Court *vide* order dated 16.01.1986, whereby the Hon'ble Supreme Court observed that Central Government should refer certain questions including the question as to whether the workmen whose services had been terminated are employees of the respondent no.1 at its Mathura Refinery, to the industrial dispute Tribunal for adjudication. It was further observed by Hon'ble Supreme Court in its order dated 16.01.1986 that until disposal of the dispute by the Industrial Tribunal status quo shall be maintained and services of the petitioners of the said writ petition shall not be terminated. The Central Government thereafter referred the industrial dispute to the CGIT which after examining the questions referred to it at great length, rendered its award dated 15.09.1989, wherein it was held that the contract labour employees at Mathura Refinery are not employees of the respondent no.1, but are employees of the contractors.

9.3 The said award dated 15.09.1989 of the CGIT was challenged before the Hon'ble Supreme Court in Civil Appeal No. 1430/1990, however the said civil appeal was dismissed by Hon'ble Supreme Court *vide* its order dated 15.02.1991 upholding the award dated 15.09.1989 of the CGIT.

9.4 It is also worth noticing that the CGIT in its award dated 15.09.1989 also made certain observations in the interest of industrial harmony at Mathura Refinery. Referring to the aims and objects of the CLRA Act, the CGIT suggested that Indian Oil Corporation Limited itself should make the reference to the Central Advisory Contract Labour Board, constituted under

the CLRA Act to make a study in respect of desirability of continuance of the contractor workers or otherwise, whether wholly or to a limited extend, of the contract labour system. It was also provided by the CGIT in its award that till the time Central Advisory Contract Labour Board makes its recommendations and action is taken, the management of the respondent no.1 may ensure that the contract labour shall be paid at least the minimum of the pay-scale available to its regular employees performing the same or similar duties as the workmen of the contract labour.

9.5 What however, is noticeable, is that the CGIT while passing the award dated 15.09.1989 has rendered a clear finding that the contract labour employed at Mathura Refinery in law are not employees of the respondent no.1. The said finding has been upheld by Hon'ble Supreme Court *vide* its order dated 15.02.1991. After the aforesaid award of the CGIT dated 15.09.1989 and the order of Hon'ble Supreme Court dated 15.02.1991, the contract labours through their Union approached the Central Advisory Contract Labour Board to initiate proceedings under Section 10 of the ID Act for abolition of contract labour at Mathura Refinery. The Central Government thereafter, issued a notification dated 09.11.1998 under Section 10(1) of the CLRA Act, abolishing employment of contract labour in Mathura Refinery. The said notification dated 09.11.1998 was challenged by the respondent no.1 by instituting W.P.(C) 426/1999 before this Court. During the pendency of the said writ petition the industrial dispute was raised by the appellants under Section 10 of the ID Act and accordingly a reference was made by the Central Government, dated 10.05.2016. The order of reference dated 10.05.2016 referred the dispute for its adjudication to the Central Government Industrial Tribunal cum Labour Court, Kanpur

and the industrial dispute so referred finds mentioned in the schedule of the said order, which is quoted hereunder:-

> *"Whether, during the pendency of Writ Petition No. 426 of 1999 before the Hon'ble High Court Delhi, the demand of the Union regarding declaring of employer in respect of 52 workers (as per Annexure (5) is bonafide and legal and if so, what relief the concerned enlisted workers are entitled to from the management of Indian Oil Corporation Ltd. Bottling Plant, Mathura?"*

9.6 It is this order of reference dated 10.05.2016, which was challenged by the respondent no.1 by instituting the underlying writ petition, which has been allowed by the impugned judgment and order passed by the learned Single Judge dated 30.01.2020.

9.7 It is worth noticing that earlier, this intra-court appeal was disposed of by a Coordinate Bench of this Court by means of the order dated 08.11.2021 in terms of the statement made on behalf of the respondent no.1 – Indian Oil Corporation Limited to the effect that the persons referred to by the learned counsel for the appellants are the employees of the transporter i.e. contractor and that they would continue to pay emoluments and/or all benefits, which are paid and/or made available to a contractual employee. On the said statement made on behalf of the learned counsel for the respondent, the learned counsel for the appellants did not press the instant appeal and, accordingly, appeal was disposed of in terms of the statement made on behalf of the learned counsel for the respondent no.1, *vide* order dated 08.11.2021. Thereafter, a miscellaneous application (C.M. APPL.29082/2022) was moved by the appellants seeking revival of the instant appeal. The said application was, however, disposed of on the statement made by the learned counsel for the appellants that there were a

number of disputed questions of facts regarding the employees and the same can be resolved only by the CGIT.

9.8 The Court while disposing of the said miscellaneous application *vide* order dated 05.07.2022, granted liberty to the appellants to make a fresh reference before CGIT so that all disputed questions of facts could be resolved by adducing findings of the parties. By the said order dated 05.07.2022, the Court also made it clear that the order passed by the learned Single Judge and the orders passed in the instant LPA will not come in the way of parties, in case, a fresh reference is made by the appellants and further that parties shall be free to take recourse to all such possible remedies in accordance with law.

9.9 Thereafter, the respondent no.1 moved C.M. APPL. 34100/2022, stating that a fresh reference on the same dispute was not maintainable and, therefore, the orders dated 08.11.2021 and 05.07.2022 passed by the Court in this appeal be recalled. This application was disposed of by the Court *vide* its order dated 11.07.2023 on the joint prayer made by the learned counsel for the parties that the orders dated 08.11.2021 and 05.07.2022 be recalled and the matter be heard on merits afresh. Thus, the Court *vide* order dated 11.07.2023, recalled the orders dated 08.11.2021 and 05.07.2022 on the joint statement made by learned counsel for the parties without entering into merits. The instant LPA was thus restored to its original number *vide* order dated 11.07.2023 and has now been heard on merits.

9.10 In the light of these developments, this Court has been called upon to decide this appeal on merits. We thus proceed to decide the appeal accordingly.

10. If we examine the judgment and order passed by the learned Single Judge, which is under challenge herein, what we notice is that the learned Single Judge has quashed the order of reference dated 10.05.2016 by correctly observing that in view of the earlier award dated 15.09.1989 passed by the CGIT, wherein, it was clearly and unambiguously held that there was no relationship of employee-employer between the appellants and the respondent no.1, no industrial dispute existed between the parties and, therefore, no reference could have been made by the Central Government for adjudication of any such industrial dispute under Section 10(1) read with Section 10(2A) of the ID Act.

11. It is true that ordinarily, the order of reference made by the appropriate Government under Section 10 of the ID Act need not be interfered with by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India and the issues between the parties should be left to be adjudicated by the industrial adjudicator (Industrial Tribunal or Labour Court as the case may be). However, in case, any such reference under Section 10 is made by the appropriate Government even in absence of any such dispute, in our opinion the Court has the power to go into the legality of such a reference and accordingly decide the validity of the reference.

12. In the instant case, the earlier industrial dispute raised was decided by the CGIT *vide* its award dated 15.09.1989, which negated the claim of the contract labours, and the award was affirmed by Hon'ble Supreme Court by means of the order dated 15.02.1991. As such, in our opinion, the reference made by the Central Government *vide* order dated 10.05.2016 could not be made for the simple reason that the industrial dispute sought to be adjudicated by the said reference stood decided way back in the year 1989

by the CGIT *vide* its award dated 15.09.1989 which, as noted above, was affirmed by Hon'ble Supreme Court *vide* its order dated 15.02.1991.

13. If we carefully peruse the schedule appended to the order dated 10.05.2016 which contains the industrial dispute that was ordered to be adjudicated, what we find is that the Central Government Industrial Tribunal cum Labour Court, Kanpur, was required to adjudicate an issue as to whether the demand of the workers' Union regarding declaration of employer was *bona fide* and legal. The industrial dispute which was sought to be raised by the said order of reference dated 10.05.2016 was essentially seeking a declaration as to who was the employer of the workmen. The said issue was already subject matter of adjudication by the CGIT, which declared the award on 15.09.1989, clearly and unambiguously holding that there was no relationship of employee-employer between the appellant and the respondent no.1 and thus, the reference made *vide* order dated 10.05.2016 was not tenable for the reason that on the date the said reference was made no such industrial dispute existed as was sought to be adjudicated by making the reference dated 10.05.2016.

14. So far as the submission of learned counsel for the appellants based on the judgments cited on its behalf to the effect that it should be left to the industrial adjudicator to decide the issue as to whether the workmen are actually the employee of the contractor or such a contract is being used as a camouflage, is concerned, we may observe that since in the earlier award dated 15.09.1989, it was clearly held that there was no relationship of employee-employer between the appellants and the respondent no.1, no such question existed for adjudication and, therefore, the judgment relied upon by the learned counsel for the appellants do not come to their rescue.

15. Learned Single Judge has considered all the relevant aspects of the matter and has returned a finding that the issue of there being employee-employer relationship had already been determined between the respondent no.1 and the contractual workers as such the judgment cited by learned counsel for the appellants in the case of ***Steel Authority of India Ltd. v. Union of India, (2006) 12 SCC 233*** was inapplicable.

16. We are in complete agreement with the said finding recorded by learned Single Judge in the impugned judgment and order for the reason that the issue relating to the nature of employment and as to whether the defence taken by the employer is a sham or camouflage could be decided only if the industrial dispute exists and in the instant case no such industrial dispute existed at the time of making of the reference dated 10.05.2016. In this view learned Single Judge has rightly repelled the arguments made by the appellant on this judgment in the case of ***Steel Authority of India Ltd. (supra)***.

17. We may also note that the learned Single Judge has extracted the portions of the award dated 15.09.1989 passed by the learned Tribunal and has categorically held that the said award will cover the entire contract labour employed at Mathura Refinery of the Indian Oil Corporation Limited.

18. The learned Single Judge has also extracted award of the CGIT dated 15.09.1989 where a categorical finding has been given by the Tribunal that the contract labour employees of Mathura Refinery are, in law, not the employees of Indian Oil Corporation Limited.

19. Having regard to the reasons given by learned Single Judge in the impugned judgment and order for quashing the order of reference dated 10.05.2016, we are of the opinion that the learned Single Judge has taken a

correct view of the matter and has rightly allowed the writ petition by the impugned judgment and order.

20. For the reasons aforesaid, we do not find any ground to interfere with the impugned judgment and orders passed by the learned Single Judge.

21. Resultantly, the appeal is hereby dismissed.

22. There will be no orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

MARCH 27 , 2026
S.Rawat