2025:DHC:9494

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

Reserved on: 30.07.2025
Pronounced on: 30.10.2025

\+ W.P.(C) 9924/2015, CM APPL. 24094/2015

AIR INDIA LIMITED .....Petitioner

Through: Mr. Sanjoy Ghose, Sr. Adv. with Mr. Amit Mishra, Ms. Mitakshara Goyal, Mr. Azeem Samuel, Mr. Akhil Kulshrestha, Mr. Shivam Goel, Ms. Shrijeta Pratik, Advs.

versus

AIRPORT EMPLOYEES UNION (REGD.) AND ANR .....Respondents

Through: Mr. Braj Kishore Roy, Adv.

CORAM:
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

RENU BHATNAGAR, J.

1. The present writ petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioner challenging the order dated 01.09.2015 passed by the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-II, Karkardooma Courts, Delhi (hereinafter referred to as 'Tribunal') in LCA No. 10 of 2008, whereby the learned Tribunal dismissed the petitioner's application assailing the maintainability of an application under Section 33C(2) of the Industrial Disputes Act, 1947 (hereinafter

referred to as 'ID Act') filed by Respondent No.1, the Airport Employees Union.

2. The petitioner, Air India Limited (formerly Indian Airlines Limited), is a company incorporated under the Companies Act, 1956 and engaged in the business of carriage of passengers and cargo by air within India and abroad. For the purpose of its ground handling operations at Indira Gandhi International Airport, Terminal-II, New Delhi, the petitioner had entered into a contract dated 12.02.1996 with M/s. Neha International (hereinafter referred to as 'Respondent No. 2') for providing services of loading and unloading of passenger baggage, as well as handling import and export cargo for various international and domestic flights.

3. The said contract, executed on a principal-to-principal basis, was extended from time to time and finally expired on 10.10.2002. During the subsistence of the contract, the loading and unloading work for these flights was performed exclusively by the contract labour engaged by Respondent No. 2, and no regular employees of the petitioner were deployed for such tasks.

4. After the expiry of the contract, Respondent No. 1, Airport Employees Union, representing 183 contract workers employed by Respondent No. 2, approached the Deputy Chief Labour Commissioner (Central), Chandigarh (hereinafter referred to as 'DLC'), by filing a petition under Rule 25(2)(v)(a) & (b) of the Contract Labour (Regulation and Abolition) Central Rules, 1971 (hereinafter referred to as 'CLRA'), seeking parity of wages and service conditions with the regular loaders/helpers of Air India.

5. *Vide* order dated 06.08.2007, the DLC held that the 183 contract workers, who were members of Respondent No. 1 Union, were entitled to wages and other service conditions equivalent to those of the regular loaders/helpers of Air India at the entry level, and that Terminal I-B and Terminal-II were to be treated as "one establishment." The relevant portion of the order dated 06.08.2007 passed by the DLC is reproduced as under:

> *"The above mentioned two questions therefore, are answered as under:*
>
> *1. The work of baggage handling performed by 183 contractor's workers enumerated in the application dated 02.02.2001 of the applicant union is of the similar nature as performed by the regular workers of Indian Airlines Ltd.*
> *2. Terminal II and Terminal I-B of Indira Gandhi International Airport, New Delhi is a single establishment, where India Airlines Ltd. carries on its operations.*
>
> *In view of the foregoing the one hundred and eighty three (183) workers whose particulars are contained in the application dated 02.02.2001 of the applicant union are entitled to same wages and other condition of service as applicable to the permanent loaders/helpers of the Indian Lines Ltd. at the entry level."*

6. On the basis of the aforesaid administrative order, Respondent No. 1 filed an application under Section 33C(2) of the ID Act, being LCA No. 10 of 2008, before the Tribunal, seeking computation and implementation of the benefits allegedly accruing to the contract workers. The petitioner contested the maintainability of the said application on the ground that there existed no employer-employee relationship between Air India and the contract workers, as the union employees were admittedly employed by the contractor and that the

order dated 06.08.2007 passed under Rule 25(2)(v)(a) of the CLRA was merely an administrative direction imposing conditions on the contractor's licence, and could not be treated as an "award" or "settlement" under the ID Act.

7. The petitioner accordingly filed an application before the learned Tribunal challenging the maintainability of LCA No. 10/2008. It was contended that any claim for additional wages, if at all, could lie only against the contractor, i.e., Respondent No. 2, and not against the petitioner, since the latter had no employer-employee relationship with the workmen concerned. The application also highlighted that the learned DLC's order did not cast any liability upon the principal employer but merely imposed a condition upon the contractor's licence.

8. By order dated 01.09.2015, the Tribunal dismissed the petitioner's application on maintainability.

9. Aggrieved thereby, the petitioner has filed the present writ petition assailing the impugned order on the ground that the Tribunal failed to address the jurisdictional issue of maintainability, erroneously assumed jurisdiction under Section 33C(2), and did not appreciate that the DLC's order was not an adjudicatory award capable of execution under the ID Act.

SUBMISSIONS ON BEHALF OF THE PETITIONER

10. Mr. Sanjoy Ghose, learned senior counsel appearing on behalf of the petitioner, submits at the outset that the impugned order dated 01.09.2015 passed by the learned Tribunal suffers from grave

infirmity in law and fact. It is submitted that the Tribunal has dismissed the petitioner's application assailing the maintainability of LCA No. 10/2008 under Section 33C(2) of the ID Act, without returning any reasoned findings on the jurisdictional issues raised.

11. It is submitted that jurisdictional facts must be established before an authority can assume jurisdiction, and an erroneous assumption of such jurisdictional facts renders the order *void*. The Tribunal has failed to appreciate that the existence of an employer-employee relationship between the petitioner and the 183 contract workmen was an essential condition for invoking Section 33C(2) of the ID Act.

12. It is submitted that the impugned order suffers from an absence of reasoning. The learned Tribunal summarily concluded that the application under Section 33C(2) was maintainable, without recording any cogent findings on whether the petitioner, as principal employer, bore any direct wages liability under Section 21(4) of the CLRA Act and whether the Deputy Labour Commissioner's order under Rule 25(2)(v)(a) could, in law, constitute an enforceable "award" or "settlement" under the ID Act. It is submitted that the absence of such analysis renders the order vulnerable to judicial scrutiny, as the Tribunal was required to return explicit reasons before assuming jurisdiction to proceed with computation.

13. The petitioner places reliance on ***Bombay Chemical Industries v. Labour Commissioner*** (2022) 5 SCC 629, wherein the Hon'ble Supreme Court held that when the existence or basis of entitlement itself is in dispute, the Labour Court cannot assume jurisdiction under

Section 33C(2).

14. It is submitted that considering ***Bombay Chemical Industries*** (supra), the Labour Court, acting as an executing forum, cannot create or recognize a right for the first time, it must relegate the workman to appropriate proceedings for adjudication. Accordingly, in the present case, where the petitioner contests its liability for wage parity under the CLRA and where no prior adjudication under the ID Act exists fixing such liability, the invocation of Section 33C(2) against the petitioner is premature and without jurisdiction.

15. It is submitted that the Hon'ble Supreme Court in ***Hindustan Steelworks Construction Ltd. v. Commissioner of Labour*** (1996) 11 SCC 291 held that the term "wages" under Section 21 of the CLRA Act must be read in the narrow sense of contractual wages payable under the terms of employment between the contractor and the workmen or under any existing award, settlement or order of a court. It is further submitted that the liability of the principal employer arises only upon the contractor's default in payment of such contractual wages and does not extend to any additional amount found payable under Rule 25(2)(v)(a) of the CLRA if the principal employer has its own workers doing similar work.

16. It is submitted that Rule 25(2)(v)(a) of the CLRA Rules merely regulates the licensing conditions of the contractor by mandating parity of wages and service conditions where similar work is performed by regular and contract workers. This Rule does not statutorily impose any corresponding liability upon the principal employer to bear such parity payments. The obligation remains

confined to the contractor's license conditions, breach of which may attract administrative consequences but cannot translate into enforceable monetary liability of the principal employer under Section 21(4) and that is precisely what is held by Apex Court in ***Hindustan Steelworks*** (supra).

17. It is submitted that in the present case, the order dated 06.08.2007 of the learned DLC was passed solely under Rule 25(2)(v)(a), determining similarity of work and entitlement to wage parity. Even assuming that the said order crystallizes the entitlement of the workmen, ***Hindustan Steelworks*** (supra) makes it clear that such crystallization does not impose a correlative financial liability upon the petitioner as principal employer. The primary responsibility to pay the workmen continues to rest with the contractor, and any default by him cannot automatically extend the petitioner's liability beyond the scope of contractual wages envisaged under the CLRA Act.

18. It is submitted that the expression "wages" under Section 21 must therefore be read in the restricted sense of amounts already due and payable under the contract, not obligations that arise from administrative or regulatory directions. Consequently, the liability of the principal employer under Section 21(4) arises only when the contractor fails to pay such contractual wages and cannot be extended to any new or additional financial obligations created outside the contract. Accordingly, even if the Deputy Labour Commissioner's order dated 06.08.2007 recognizes parity under Rule 25(2)(v)(a), it cannot be enforced against the petitioner under Section 33C(2) by

treating the principal employer as liable for the additional amounts. The petitioner's liability, if any, is confined strictly to contractual wages within the meaning of the Act.

19. He, therefore submits that the impugned order dated 01.09.2015 is liable to be quashed as it suffers from non-consideration of material issues, erroneous assumption of jurisdiction, and absence of reasoned findings. The application under Section 33C(2) filed by Respondent No. 1 Union is not maintainable against the petitioner in law, and all consequential proceedings in LCA No. 10/2008 deserve to be set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 1

20. *Per Contra*, the learned counsel appearing on behalf of Respondent No. 1 submits that the present writ petition is devoid of merit and is liable to be dismissed *in limine*. The impugned order does not suffer from any illegality or perversity warranting interference under Articles 226 and 227 of the Constitution of India. The Tribunal has rightly held that the application under Section 33C(2) of the ID Act filed by the answering respondent, is maintainable.

21. It is submitted that the order dated 06.08.2007 passed by the DLC, under Rule 25(2)(v)(a) of the CLRA, unequivocally determined that the 183 contract workmen, members of the answering respondent union, were performing the same or similar kind of work as the regular loaders/helpers of the petitioner at Indira Gandhi International Airport and, therefore, were entitled to wages and conditions of service at par with such regular employees. This order was passed

after due consideration of submissions from both the contractor and the petitioner and thus has binding effect.

22. It is submitted that once the DLC has determined that the workmen are entitled to parity in wages and service conditions with regular employees, a corresponding right has accrued in their favour, which can be enforced through computation under Section 33C(2). It is a settled proposition that Section 33C(2) of the ID Act is in the nature of an execution proceeding, and once a right has been adjudicated or crystallised by a competent authority, the Tribunal can compute the benefits payable. In this respect, he places reliance of ***Municipal Corporation of Delhi v. Ganesh Razak,*** (1995) 1 SCC 235.

23. It is submitted that the petitioner's contention that no employer-employee relationship exists is wholly misconceived. It is submitted that the principle underlying Rule 25(2)(v)(a) of the CLRA is to ensure that contract labour is not exploited by being paid wages lower than those paid to directly employed workmen performing the same or similar work. The petitioner, being the principal employer, cannot shirk responsibility for ensuring compliance with statutory provisions. The very purpose of incorporating this condition in the contractor's licence is to protect contract labour from discriminatory treatment, and allowing the petitioner to escape liability would defeat the legislative intent.

24. It is further submitted that the rulings relied upon by the petitioner relating to casual workmen are distinguishable and have no application to the present case. Casual workers are engaged directly

and on a day-to-day basis without any contractual nexus, whereas the answering respondent's members are contract labour engaged continuously and on a long-term basis for perennial nature of work integral to the petitioner's business operations. The contract was not of sporadic or temporary nature but pertained to core ground-handling activities of the petitioner's flights.

25. It is submitted that the petitioner has not challenged the order dated 06.08.2007 of the DLC, Chandigarh, which has attained finality. Having accepted that order, the petitioner cannot now dispute its binding effect. It is submitted that the petitioner is estopped from contending that the said order is merely administrative. The Tribunal has rightly taken note that the factual findings in the DLC order, including the parity of work performed, have not been rebutted by the petitioner in any appropriate forum.

26. In light of the above, it is submitted that the writ petition is nothing but an attempt by the petitioner to delay the legitimate claims of the workmen, who have been performing duties of a permanent and perennial nature but have been denied rightful wages and benefits. The petitioner, being the principal employer and ultimate beneficiary of the work performed, cannot avoid its obligations under law. It is submitted that the impugned order being well-reasoned and legally sound deserves to be upheld, and it is prayed that the present petition be dismissed with costs.

ANALYSIS AND FINDINGS

27. Heard learned counsel for the parties and perused the material on record.

28. It is not in dispute that the 183 workmen were engaged through a contractor and were rendering services in connection with the operations of the petitioner. This factual foundation is admitted and is not contested before this Court.

29. It becomes necessary to examine the reasoning adopted by the learned Labour Court in the impugned order. The controversy herein does not merely turn on a factual dispute but raises an important question touching upon the very jurisdiction of the Tribunal under Section 33C(2) of the ID Act, considering the statutory order passed under Rule 25(2)(v)(a) of the CLRA Rules. Accordingly, before embarking on a legal analysis, this Court deems it appropriate to reproduce and scrutinize the relevant portion of the impugned order to ascertain whether the Tribunal has adequately addressed the issues so raised or has fallen into a jurisdictional error warranting interference.

30. Upon perusal of the impugned order, this Court finds that it is conspicuously brief and lacks any substantive reasoning on the jurisdictional objection raised by the petitioner. The learned Labour Court merely observed that the decisions relied upon by the management concerned "casual workmen" and were therefore, inapplicable, whereas those cited by the workmen pertained to "contractual workmen". On that premise alone, it concluded that the application under Section 33C(2) was maintainable. The relevant portion of the order reads as follows:

> *"I perused the cited rulings cited on behalf of the Ld. A/Rs for the parties. Rulings cited on behalf of Ld. A/R for the workmen are based on contractual workmen. While rulings cited on behalf of management No. 1 related to causal*

workmen. So ruling cited on behalf of management No. 1 are inapplicable in the instant case.

So, claim of workmen can be adjudicated by this Tribunal u/s 33 C(2) ID Act. In this background this Tribunal has no option except to reject the application of management No. 1 as application is maintainable.

Which is accordingly rejected. Fixed 28.10.2015 for workmen evidence."

31. This reasoning does not meet the threshold of a reasoned order, particularly in a matter that deals with the connection between the CLRA Act and ID Act. The petitioner's challenge went to the very root of jurisdiction, whether a claim for parity of wages founded upon Rule 25(2)(v)(a) of the CLRA Rules could be enforced directly against the principal employer through Section 33C(2). Such an objection required a detailed examination of the statutory framework and binding authorities.

32. The learned Labour Court's statement that it had "no option except to reject" the petitioner's objection cannot substitute for an adjudication supported by reasoning. In the absence of a discussion on how the workers' claim satisfied the test of a pre-existing right or how the petitioner's liability arose under Section 21 of the CLRA Act, the order cannot be said to disclose a proper application of mind.

33. The finding that all the rulings cited by the petitioner before the learned Tribunal/Labour Court pertained only to casual workmen is also erroneous. Notably, one of the authorities cited before the learned Labour Court namely, ***The Managing Director, Karnataka Urban Water Supply and Drainage Board v. Basavaraj Ningappa Hudli&***

Anr. W.P. 62691/2021 of the Karnataka High Court relates to contractual workers and in the said order, the case of ***Hindustan Steelworks*** (supra), which is being referred before this Court was also relied upon.The Tribunal/Labour Court, without dealing with the authorities, cited by the petitioner, has brushed them aside only with one line order that they relate to casual labour, which is an erroneous finding, as observed above.

34. The order, while rejecting the application of the petitioner regarding maintainability of the application of the respondent under Section 33C(2) of the ID Act has referred to the arguments of the respondent but has not referred to the grounds/reasons and the arguments of the petitioner as raised in the application filed by petitioner *qua* maintainability of petition under Section 33C(2) of the ID Act. The order does not reflect any analysis of the objections raised by the petitioner. The Tribunal/Labour Court confined itself to a bare observation that the decisions relied upon by the management were "inapplicable" and proceeded to reject the objection summarily in a cryptic manner. The order clearly manifests the non-application of mind by the Tribunal and is badly drafted, having many grammatical mistakes.

35. In the absence of any reasoned findings given by the Tribunal in the impugned order, rejecting the application of the petitioner, this Court does not have the occasion to scrutinize the arguments of the petitioner and the basis on which the application of petitioner was rejected/dismissed by the learned Tribunal.

36. Having regard to the discussion above, this Court is of the

considered view that the impugned order dated 01.09.2015 cannot be sustained being cryptic in nature. In view of the foregoing discussion, the present matter deserves to be remitted back to the learned Tribunal.

37. Accordingly, the impugned order dated 01.09.2015 passed by the learned Central Government Industrial Tribunal-cum-Labour Court is set aside and the matter is remanded back to the learned Tribunal for fresh adjudication of the application of petitioner regarding maintainability with the direction to pass a well-reasoned speaking order, deciding all the issues raised and law cited by both sides, within a period of three months of receiving this order.

38. The present writ petition is disposed of along with pending applications, if any.

39. Parties are directed to appear before the Tribunal/Labour Court on 17th November, 2025. A copy of this order be sent to the concerned court for information and compliance.

RENU BHATNAGAR, J.

OCTOBER 30, 2025
Pallavi/KJ