

Supreme Court of India

Surendra Prasad Kungsal vs M.M.T. Corpn. Of India And Another ... on 30 August, 1993

Equivalent citations: AIR 1993 SC 2491, JT 1993 (5) SC 80, (1994) ILLJ 351 SC, 1993 (3) SCALE 598, 1994 Supp (1) SCC 87

Bench: P Sawant, S Agrawal

ORDER

1. These are three writ petitions under Article 32 of the Constitution, all filed on behalf of the workers employed in non-statutory recognised canteens. Writ Petition No. 16081 of 1984 is filed on behalf of the workers employed in the canteens of National Small Scale Industries Corporation [NSIC]. Writ Petition No. 16082 is filed on behalf of the workers in the canteens of the Food Corporation of India [FCI] and Writ Petition No. 11211 of 1985 is filed on behalf of the workers in the canteens of the Minerals and Metals Trading Corporation of India [MMTC].

2. In Writ Petition No. 16081 of 1984 which is filed on behalf of NSIC canteen workers, the relief claimed is that the canteen workers be treated on par with the Central Government employees and be granted the same status as that of civil servants with all the benefits and pay scales with effect from 1st October, 1979 or the pay scales mentioned in paragraph 15 of the writ petition. The canteen workers in this petition have contended that though the canteen in which they work is a non-statutory one, it is run or managed by the Government of India.

3. Writ Petition No. 16082 of 1984, which is the petition filed by the canteen workers of the FCI, is nothing but a copy of the petition filed by the canteen workers of the NSIC. The same averments are made and the same relief is claimed therein.

4. In Writ Petition No. 11211 of 1985, the relief claimed is that the Petitioner-canteen workers should be treated on par with the general MMTC employees of the same cadre/ department and to grant them all antecedent benefits and pay scales with effect from 21st December; 1983.

5. The claim of the writ petitioners in all the writ petitions is sought to be supported by a decision of this Court in *M.M.R. Khan and Ors. v. Union of India and Ors.* 1990 (Supp.) SCC 191. These petitions have strongly been opposed by the respondent-Public Sector Corporations on various grounds. It is also pointed out that the aforesaid "decision of this Court will not be applicable to the facts of the present petitions.

6. We have heard both the parties in all the petitions at some length. The petitioners in all the petitions place their reliance on the decision in the *M.M.R. Khan's* case [supra]. However, we find that the said case which admittedly concerned the canteen workers both in the statutory canteens and recognised non-statutory canteens was decided on the facts in those cases including the provisions of the Railway Manual, the notifications and circulars issued by the Railway Board from time to time and other documents which pertained to the workers employed in the said canteens. None of the material which was taken into consideration there has relevance to the workers concerned in the present canteens. On the other hand, there are disputed facts in the present case which cannot be resolved in a writ petition under Article 32. We, therefore, find that this Court is

not the proper forum to decide the present disputes. However, we cannot lose sight of the fact that these petitions have been pending before this Court since 1984/85. We, therefore, direct the Delhi Administration to refer the industrial dispute between the petitioner-Canteen Mazdur Sabha and the respondent-National Small Industries Corporation in Writ Petition No. 16081 of 1984 to the Industrial Tribunal under Section 10[1][d] of the Industrial Disputes Act, 1947 within four weeks from today.

Similarly, we direct the Central Government to refer the industrial dispute between the petitioner-Canteen Mazdur Sabha and respondent-FCI in Writ Petition No. 16082 of 1984 and the industrial dispute between the petitioner-Canteen Mazdur Sabha and the respondent MMTC in Writ Petition No. 11211 of 1985 to the Industrial Tribunal under Section 10[1](d) of the Industrial Disputes Act, 1947 within four weeks from today.

7. The Industrial Tribunal will dispose of the said disputes as far as possible within nine months from the date of reference of the disputes to them keeping in mind the fact that these disputes have been pending since 1984-85.

The writ petitions are disposed of accordingly with no order as to costs.