

GAHC010006292018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/741/2018

1.BHARAT SANCHAR NIGAM LTD. AND 2 ORS
REPRESENTED BY CHIEF MANAGING DIRECTOR, SANCHAR BHAWAN,
HARISH CHANDRA MATHUR LANE, JANPATH, NEW DELHI

2: CHIEF GENERAL MANAGER
TELECOM BSNL ASSAM CIRCLE
PANBAZAR GUWAHATI - 781001 ASSAM

3: GENERAL MANAGER
NAGAON TELECOM DISTRICT
BSNL NAGAON- 782001 ASSAM

-VERSUS-

1.MOHAN CHANDRA KALITA AND 3 ORS
S/O LT. DIMBESWAR KALITA
VILL- BHUTUAGAON P.O. URIAGAON
DIST. NAGAON, ASSAM, PIN - 782003.

2:SHRI NITISH RANJAN DAS
P.O. RUPOHIHAT DIST. NAGAON
ASSAM PIN - 782125

3:SRI CHANDRAMAL SENAPATI
S/O LT. NIRMAL SENAPATI
VILL- BHALUKMARI P.O. GANDHIBORI
DIST. NAGAON PIN - 782102 ASSAM

4:MD. ABDUL SALAM
S/O MD. ABDUL RAHMAN
P.O. RUPOHIAT DIST. NAGAON
ASSAM PIN - 78212

For the Petitioner(s) : Mr. B. Pathak, Advocate.
: Mr. V. Kumar, Advocate.
For the Respondent(s) : Ms. B. Devi, Advocate.

– BEFORE –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

30.07.2024

(Vijay Bishnoi, CJ)

This writ petition is filed by the petitioners challenging the order dated 14.07.2016 passed by the Central Administrative Tribunal, Guwahati Bench (hereinafter to be referred as "the Tribunal") in Transfer Application No.25/2009.

2. It is noticed that the Tribunal disposed of the Transfer Application No.25/2009 relying on a decision of the Tribunal passed in Transfer Application No.39/2009 (***Kandarpa Das & Anr. Vs. Union of India & Ors.***).

3. Learned counsel appearing for the parties have submitted that the order passed by the Tribunal in Transfer Application No.39/2009, ***Kandarpa Das*** (supra) was subject matter of challenge before a Division Bench of this Court in WP(C) No.4127/2015 and the Division Bench, vide judgment and order dated 28.03.2018, has set aside the said order and has remanded the matter to the Tribunal for a fresh decision.

4. The operative portion of the judgment and order dated 28.03.2018 passed by a Division Bench of this Court in WP(C) No.4127/2015 is reproduced hereunder:

“6. The dispute in respect of claim to the status of Temporary Mazdoors subsists even as on date as the matter is yet to be brought to its logical conclusion in terms of the aforesaid judgment and order dated 19.03.2012 by resorting to the procedure prescribed under sub-section (3) of Section 22 of the Administrative Tribunal's Act, 1985. Even today, both parties are at loggerheads, where one party claims to have fulfilled the conditions precedent for conferment of status as Temporary Mazdoors, while the other party fiercely denying the same.

7. On the above count, we have no option but to remand the matters to the Tribunal once again for resolving the apparent dispute by taking recourse to the procedure prescribed under sub-section (3) of Section 22 of the Administrative Tribunal's Act, 1985. On the finding above, we allow all the four writ petitions by setting aside the common order of the Tribunal dated 08.04.2004. Since the dispute between the parties are long pending one, we hope and trust that the same would be brought to its logical determination by the Tribunal as expeditiously as possible by following the procedure, as indicated above. In this regard, the concerned Transfer Applications and the Original Application be restored to file for a de-novo hearing and judgment thereof."

5. We are of the view that the reasons given by the Division Bench of this Court in the above referred operative portion of the judgment and order dated 28.03.2018 are squarely applicable in the present case also. Hence, this writ petition is allowed. The impugned order dated 14.07.2016 passed by the Central Administrative Tribunal, Guwahati Bench in Transfer Application No.25/2009 is set aside.

6. The writ petition is accordingly disposed of in terms of the judgment and order dated 28.03.2018 passed by a Division Bench of this Court in WP(C) No.4127/2015 by directing the Tribunal to take a fresh decision on the dispute regarding granting temporary status to the respondents herein, who were the applicants in Transfer Application No.25/2009.

7. We request the Tribunal to pass a fresh order expeditiously, preferably, within a period of 6(six) months from the date of production of a certified copy of this order.

JUDGE

CHIEF JUSTICE

Comparing Assistant