

GAHC010269232018



2026:GAU-AS:6220

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

Case No. : WP(C)/8422/2018

INLAND WATERWAYS AUTHORITY OF INDIA (ASSAM SECTOR) MARINE
WORKERS UNION
PANDU JAHAI GHAT
P.O. PANDU
GUWAHATI - 781012
(REP. BY ITS GENERAL SECRETARY)

VERSUS

UNION OF INDIA AND 2 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF LABOUR AND EMPLOYMENT)
SHARAM SHAKTI BHAWAN)
RAFI MARG, NEW DELHI- 110001.

2:INLAND WATERWAYS AUTHORITY OF INDIA
A-13 SECTOR-1 NOIDA

UTTAR PRADESH- 201301
REP. BY ITS MANAGING DIRECTOR.

3:THE DIRECTOR
INLAND WATERWAYS AUTHORITY OF INDIA PANDU PORT COMPLEX
PANDU GUWAHATI- 781012

Advocate for the Petitioner : MR A DASGUPTA, MS. B DAS,MR. K BORA,MR. R SARKAR

Advocate for the Respondent : ASSTT.S.G.I., MS. I DAS (R2, R3),MR. SURAJIT DUTTA (R2, R3),SC, IWT,MR. Y DOLOI (SR. C.G.C., R1-R3)

:::BEFORE:::

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of Hearing : 06.01.2026

Date of Judgment : 29.04.2026

Judgment and Order (CAV)

Heard Mr. A. Dasgupta, learned Senior Counsel, assisted by Ms. B. Das, learned counsel, appearing for the petitioner. Also heard Mr. S. Dutta, learned Senior Counsel, assisted by Mr. S. Dutta, learned counsel, appearing for the respondents.

2. The Petitioner Union has instituted the present writ petition assailing an Award dated 06.02.2018, passed by the Central Government Industrial Tribunal (CGIT)-cum-Labour Court, Guwahati, in Ref. Case No.02/2016.

3. The Petitioner Union has projected that its members were employed directly by the Inland Waterways Authority of India (IWAI), against various posts on contingency basis and/or on payment of lump sum monthly wage, on verbal agreements till 2007, and thereafter although they were continuing to be so engaged under the direct control of the Inland Waterways Authority of India, their wages and salaries were being paid through the Inland Waterways Authority of India (Assam Sector) Marine Workers' Development Society. Thereafter, the IWAI authorities had engaged the members of petitioner Union by way of issuance of appointment letters for a period of 89 (eighty nine) days and the members of the Petitioner Union were working in Dhubri to Sadiya stretch of river Brahmaputra which is identified as Inland Waterways No.2 by IWAI. It is further projected that in the year 2013, the IWAI entered into agreements with contractors for manning, maintenance and operation of 5 (five) numbers of vessels of IWAI, along with the workers

deployed in the vessels, which includes the members of the petitioner Union. It is submitted that although 25 (twenty five) members of the Petitioner Union were so employed, the remaining 61 (sixty one) members of the union continued to be employed directly by the IWAI.

Being aggrieved by the inaction on the part of the IWAI authorities to issue orders engaging the petitioner and having required their services to be placed under the contractors, the petitioner Union raised an industrial dispute for protection of 94 (ninety four) numbers of marine vessel crews in consequence of the decision of the IWAI for engagement of contractors to man, operate and maintain vessels owned by IWAI. A 10 (ten) point charter of demand was so raised in the conciliation proceedings held. It is projected that the competent authority had issued a conciliation notice dated 30.04.2013, fixing 08.05.2013, for the conciliation proceedings. However it is projected that in the said conciliation proceedings, a settlement could not be arrived between the parties. On the failure of the said conciliation proceedings, the matter being referred to the Appropriate Government, the Appropriate Government vide notification dated 13.01.2016, referred the dispute to the Central Government Industrial Tribunal (CGIT)-cum-Labour Court, Guwahati, for adjudication. The reference being so received by the CGIT, the same was registered as Ref. Case No.02/2016. The CGIT after considering the evidences coming on record and upon hearing the parties to the proceeding, proceeded vide Award dated 06.02.2018, to hold that the IWAI did not act in the matter in any unjustified manner and that the members of the petitioner Union were not directly employed by the IWAI on casual basis or temporary basis for discharging works which were perennial in nature. Accordingly, the Tribunal held that the members of the petitioner Union were not entitled to any relief as claimed by them and accordingly, the Award was answered against the Petitioner Union.

Being aggrieved the Petitioner Union has instituted the present proceedings.

4. Mr. A. Dasgupta, learned Senior Counsel, has submitted that from the

materials brought on record it was apparent that the members of the Petitioner Union were engaged by IWAI for works of perennial nature. The appropriate Government appreciating the said aspect of the matter had in terms of reference required the Tribunal to examine as to whether the action of the management of IWAI was justified in making employment on casual basis by engaging the marine vessel crew only for 89 days in one spell with one day break when the work involved was of perennial nature. He further submits that the terms of reference also required the Tribunal to adjudicate as to whether the Management of IWAI was justified in not formulating terms and conditions for vessel crew working since long years in works of perennial nature. He submits that considering the terms of reference, the Tribunal could not have proceeded to draw a conclusion to the effect that the members of the Petitioner Union were not engaged for works which were of perennial nature. Accordingly, he submits that the Tribunal had proceeded to adjudicate the reference made to it by the appropriate Government by proceeding beyond the confines of the terms of reference so made. The learned Tribunal having failed to exercise its adjudicatory powers in accordance with law, it is submitted that the Award would mandate an interference from this Court.

5. Mr. A. Dasgupta, learned Senior Counsel further submits that the conclusion drawn by the learned Tribunal that the members of the petitioner Union were not under direct employment of the IWAI, to be a perverse conclusions, inasmuch as, materials brought on record had highlighted that the members of the Petitioner Union were being engaged by IWAI for 89 (eighty nine) days on contract basis and the members of the Petitioner Union so engaged were never disengaged. Accordingly, he submits that the continuation of the members of the Petitioner Union by IWAI, even after the engagement of the contractors for manning, maintenance and operation of the vessels involved, the members of the petitioner Union not being disengaged, the conclusion drawn by the learned Tribunal that the members

of the petitioner Union were not directly employed by IWAI, was a perverse conclusion. He submits that the learned Tribunal failed to lift the veil to examine as to whether the engagement of the contractors was only a paper arrangement made so as to deny the workers their entitlements under law.

6. Mr. A. Dasgupta, learned Senior Counsel, has further submitted that the Management having not adduced any evidence in the matter, the evidence adduced by the Petitioner Union being not disputed, there being no material that the members of the Petitioner Union, were engaged by the contractors in the matter, the learned Tribunal exceeded its jurisdiction in drawing a conclusion that the members of the Petitioner Union were being employed by the contractors and not by IWAI authority.

In the above premises, Mr. A. Dasgupta, submits that the materials brought on record having demonstrated that the Petitioner Union to be under the direct employment of the IWAI, the reference made by the appropriate authority ought to have been answered in favour of the Petitioner Union. Accordingly, he submits that the conclusion drawn by the learned Tribunal in the impugned Award being perverse, the same would mandate an interference from this Court.

7. Mr. S. Dutta, learned Senior Counsel, appearing for the IWAI authorities, after reiterating the grounds of challenge made in the present proceedings by the Petitioner Union to the impugned Award, has submitted that from the pleadings brought on record it had emerged that workmen were so employed for the purpose of dredging the river bed so as to maintain flow in the river channel. He submits that it was also evident from the materials coming on record that the work, in question, was outsourced to contractors. He submits that after the term of the engaged contractors had expired, and tenders were issued for engagement of fresh contractors, in the interregnum for the purpose of maintaining continuity of the work, in question, workmen, being required to be engaged for the works involved,

members of the Petitioner Union came to be engaged on contingency basis for 89 (eighty nine) days. He submits that on contractors being appointed in the matter in pursuance to a process of tender, the workmen involved having not handed over the vessels, in question, to such contractors, a dispute having arisen, the workmen had proceeded to raise a dispute before the jurisdictional Assistant Labour Commissioner (Central). He submits that from Exhibit-A, brought on record before the Tribunal, the above aspect of the matter would be evident. He submits that from Exhibit-A it is not evident that the workmen involved were so involved in works of perennial nature. He submits that the dredging activities involved are seasonal in nature.

8. Mr. S. Dutta, learned Senior Counsel, appearing for the respondents, by taking this Court through the deposition of the workmen witness before the Tribunal, has submitted that the said witness had made a categorical statement to the effect that they were seeking employment under the IWAI, and in this connection had also preferred a writ petition being WP(C).No.5410/2066, before this Court. He submits that from the cross-examination of the workmen witness, it would be evident that no material was brought on record by workmen to justify their contention that they were under direct employment of the IWAI. He had highlighted that the workmen witness during his cross-examination had deposed that there was no document except Exhibit-D, to support the case of the workmen and further no document was exhibited to show that the workmen involved in the present case were/are employees of IWAI. He submits that it was further elicited from the workmen witness that he had not submitted any document to show that either he or any other workmen were receiving salaries from IWAI. Accordingly, Mr. S. Dutta, submits that no material having been brought on record to highlight that the nature of works for which they were so engaged was perennial in nature and further that they were directly engaged by the IWAI authorities, there was no requirement for adducing any further evidence from the part of the IWAI authorities. He submits that the

obligation of the IWAI, to adduce evidence before the Tribunal would have arisen only if the workmen had discharged their initial burden with regard to the establishment of the fundamental facts, which he submits were not so established.

9. Mr. S. Dutta, learned Senior Counsel, further submits that the projection by the Petitioner Union of its members being engaged by a contractor to be only a paper arrangement was not established during the proceedings before the learned Tribunal and accordingly, the occasion for lifting of the veil by the learned Tribunal in the matter had not arisen.

10. With regard to the contentions raised by the learned Senior Counsel for the petitioner, that the learned Tribunal had passed the Award, in question, going beyond the terms of reference, the learned Senior Counsel, for the respondents, has submitted that the workmen were required to establish the foundational facts i.e. **(a)** that they were engaged directly under the IWAI; and **(b)** the work for which they were so engaged was of perennial nature. It is submitted that the foundational facts, for adjudicating the terms of reference, was found to have not been established by the workmen, herein. He submits that mere paraphrasing of terms of reference cannot be projected to be a conclusion to the effect that the workmen were so engaged in works of perennial nature and were engaged directly by the IWAI. He submits that the said aspects of the matter being foundational in nature was required to be established by the workmen and thereafter only the onus would have shifted upon the IWAI authorities to dispel such projection made by the workmen. The foundational facts not having been established by the workmen, the onus involved cannot be held to have been shifted upon the IWAI authorities. Accordingly, he submits that the learned Tribunal having adjudicated the matter strictly basing on the materials coming on record, the impugned award would not mandate an interference from this Court.

11. I have heard the learned counsel for the parties and perused the materials available on record.

12. The Petitioner Union in their pleadings before the learned Tribunal, had contended that from the date of joining by the members of the Petitioner Union in their services, till 2007, all of them were employed without employment letters, as contingency staff of vessels of IWAI at lump sum monthly wages, under the direct control and supervision of the IWAI authorities. It was further projected that the wages were initially being paid directly to the workmen by the IWAI authorities. However, subsequently, such payment of wages was being made through the Inland Waterways Authority of India (Assam Sector) Marine Workers' Development Society. The said procedure was also given up and the IWAI authorities had entered into agreements with 02 (two) private entities namely M/s A C Roy and Co, Kolkata, and M/s Chinara Shipping and Infrastructure (India) Pvt. Ltd. Mumbai, for manning, maintenance and operation of 5 (five) survey vessels of IWAI. The Petitioner Union has further projected that the engagement of the members of the Petitioner Union under the said contractors were only a paper arrangement and they continued to discharge their respective duties under the direct control and supervision of the IWAI authorities and only the monthly wages were being paid through the above contractors.

13. The Petitioner Union by contending that its members were discharging their duties which were of perennial nature for a long period of time, had raised an industrial dispute for protection of 94 members of marine vessel crews, accordingly, a 10 point charter of demand was raised. The Petitioner Union had approached the Regional Labour Commissioner (C) Guwahati. A conciliation proceeding was, thereafter, held which had not resulted in any settlement, which is projected by the Petitioner Union to be on account of the non-responsive attitude of the management of IWAI. The

failure report of the conciliation proceeding being sent to the Appropriate Government by the Assistant Labour Commissioner (Central) Guwahati, a reference came to be made in the matter. The Petitioner Union had raised an issue of unfair labour practice being resorted to by the IWAI authorities. The terms of reference was projected to be with regard to 87 (eighty seven) members of the Union who were stated to have been effected adversely due to the anti labour attitude adopted by the Management of IWAI.

14. The appropriate Government had vide notification dated 13.01.2016, referred the dispute to the CGIT, Guwahati. The terms of reference being relevant is extracted, hereinbelow;

“Whether the action of the management of Inland Waterways Authority of India, Regional Directorate, Pandu Port Complex, Guwahati, Assam, is justified in making casual system of working by engaging the marine vessel crew only for 89 days in one spell with one day break in perennial nature of work of IWAI ? If not, what relief these workmen are entitled to ?” “Whether the management of IWAI is justified in not formulating terms and conditions of service of these vessel crews working since long years in a perennial nature of work ? If not, what relief these workmen are entitled to by the IWAI?” “Whether the management of IWAI is justified in not paying the marine vessel crew consolidated pay as per the 6th Pay Commission as recommended in the meeting of the chairperson with the field directors of the IWAI on 04.05.2011 ? if not, what relief these workmen are entitled to by the IWAI ?”

15. The Petitioner Union in support of its stand had adduced the evidence of one Jiten Deka, before the learned Tribunal, as the workmen witness. The workmen witness during his cross-examination had deposed that there was no document except Exhibit- B, enclosed with his evidence on

affidavit, to support the case of the workmen. He further deposed that in his evidence he had not exhibited any document to show that the workmen involved in the present case were/are employees of IWAI and further to show that either he or any other workmen were receiving salaries from IWAI. From the cross-examination of the workmen witness, it is clear that the Petitioner Union had failed to bring on record before the learned Tribunal any material to demonstrate that its members were directly employed by IWAI and further that they were receiving their salaries from IWAI.

16. A perusal of Exhibit-I, as exhibited by the workmen witness, it would be evident that the grievance of the members of the Petitioner Union in the present matter was on account of the problems faced by them regarding release of salaries and other service benefits by the contractors involved in the matter. And accordingly a prayer was made before the IWAI authorities for absorbing their services in IWAI.

As noticed, hereinabove, the Petitioner Union during the proceedings before the learned Tribunal had not endeavoured to bring on record materials to demonstrate that the nature of works discharged by them were perennial in nature. Further, there was no materials to indicate that they were under direct employment of the IWAI authorities.

17. The learned Tribunal on appreciating the evidences brought on record by the workmen had drawn a conclusion to the effect that there was nothing brought on record to show or suggest that the engagement of the contractors was only a paper arrangement and further to suggest that the duties performed by the members of the Petitioner Union were of perennial nature. Basing on the said conclusions drawn, the learned Tribunal had answered the reference made in the following manner;

14. The first issue in the reference is whether the management is justified in employing the workmen on casual basis to perform works of perennial nature. Two aspects are involved in this. Firstly, whether the concerned workmen are

under direct employment of the management on casual basis; and secondly, whether the nature of work they perform is of perennial nature. Meanwhile, it may be mentioned that no notification under CLRA Act prohibiting engagement of contract labour was issued by the concerned Government in respect of the present management/industry, Since it has been claimed on behalf of the workmen that they have been performing duties of perennial nature, the burden of proving the same is upon them. The argument of the workmen side that since the management side did not adduce any evidence, the claim of the workmen has to be accepted to be proved. The claim of the workmen definitely would have been accepted to be proved had they been able to lead at least some admissible evidence to that effect. But there is absolutely no evidence to show that the workmen have been under direct employment of the management on casual basis and have been performing duties of perennial nature. In the entire evidence of the workmen side including the evidence adduced in the Miscellaneous application, there is nothing to support the claim. On the contrary, there is straight forward material to show that the workmen have been engaged in the concerned company through contractors.

15. In view of the above it is held that the management did not act in an unjustified manner. Since the workers are not in direct employment of the Company on casual basis or temporary basis in perennial nature of work, the workmen don't appear to be entitled to any relief as claimed by them. The reference is answered accordingly. Send the no relief "Award" to the concerned Government.”

18. This Court has perused the conclusion drawn by the learned Tribunal in the light of the evidences adduced by the Petitioner Union before the Tribunal. On appreciating the said conclusions, this Court finds that the learned Tribunal had appreciated the evidences in its proper perspective and in absence of any materials brought on record by the Petitioner Union to the effect that their members were under direct employment of IWAI and the work they were so discharging was of

perennial nature, the answering of the reference against the Petitioner Union, in the considered view of this Court was not erroneous. The materials brought on record clearly reflects that the members of the Petitioner Union were not engaged directly by the Management or IWAI, but for a short period when the contract for manning, maintenance and operating the 5 (five) numbers of vessels of IWAI, in question, had expired and the tender process was under way. The members of the Petitioner Union are found to have been engaged by the contractors and there being no prohibition for engagement of contract labour issued by the concerned authority in respect of the IWAI, this Court is of the considered view that the conclusion drawn by the learned Tribunal in the impugned Award would not mandate an interference.

19. The contention of the learned Senior Counsel for the Petitioner Union, that the management not having adduced any evidence before the Tribunal, the Tribunal ought to have answered the reference in favour of the Petitioner Union, was appreciated by the Tribunal and it was concluded that the workmen had not lead at least some admissible evidence in the matter to establish the foundational facts and on the contrary there was material brought on record that the workmen were engaged through contractors. This Court has appreciated the said conclusions basing on the materials available on record and finds such conclusions drawn by the Tribunal to be not erroneous. Accordingly, the said contentions raised by the learned counsel for the Petitioner Union stands rejected.

20. In view of the above conclusions reached by this Court, hereinabove, the present writ petition is held to be devoid of any merit and the same stands dismissed. However there would be no order as to costs. _

JUDGE