



HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 900 of 2025

B.H.E.L. Contract Workers Union Through Its
General Secretary Mahendra Singh

.....Appellant(s)

Versus

Bharat Heavy Electrical Limited And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Krishna Mohan Asthana, Sr. Advocate
Counsel for Respondent(s)	:	Ashish Mishra

Court No. - 21

HON'BLE MANOJ KUMAR GUPTA, J.
HON'BLE SIDDHARTH NANDAN, J.

1. The submission is that the respondent-Company though had engaged workers on contract basis but the control and supervision over them remained with the respondent-Company. Therefore, the contract workers should, in fact, be treated to be in employment under respondent-Company. In support of the said submission, learned counsel for the appellant places reliance on judgment of Supreme Court in ***Jaggo v. Union of India and others***, 2024 SCC OnLine SC 3826. It is further submitted that in this regard the finding returned by Labour Commissioner, U.P., relating to control and supervision in the order dated 05.01.2005 while deciding claim of equal wages for equal work is binding on the respondent-Company. It is further submitted that the judgment of the Supreme Court in ***Bharat Heavy Electricals Limited vs. Mahendra Prasad Jakhmola and others***, (2019) 13 SCC 82, would not apply to the facts of the instant case, as in that case, there was no prohibition for engagement of workers on contract basis. It is submitted that the principles laid down by the Supreme Court in Constitution Bench judgment in ***Steel Authority of India Ltd. and others vs. National Union Waterfront Workers and others***, (2001) 7 SCC 1, in paragraph-125(6) would apply and the respondent-Company having employed contractual labours in violation of the prohibition notification was required to first consider the contract workers for employment before engaging or appointing any person from outside.

2. Shri Amit Mishra, learned counsel appearing on behalf of the respondent-Corporation submits that the appeal is defective inasmuch as it has been filed

challenging common judgment in two different writ petitions. According to him, two separate appeals should have been filed. He further places reliance on the judgment of the Supreme Court in ***Balwant Rai Saluja and another vs. Air India Limited and others***, (2014) 9 SCC 407 in contending that the finding of the Labour Court in the previous award would not be binding as the factors laid down by the Supreme Court in the said judgment in para-65 have not been considered. He further submits that against the award dated 05.01.2005, writ petition filed by the respondent-Company being Writ - C No. 22701 of 2005 is still pending and the said award has not become final and therein, an interim order is also in operation.

3. The matter requires consideration.

4. As it seems that during pendency of the writ petition, the respondent-Company has proceeded to make appointments in pursuance of the impugned advertisement, therefore, as prayed by learned counsel for the appellant, he is permitted to implead the persons appointed in pursuance of the impugned advertisement or at least some of them in representative capacity and take steps to serve them by the registered post within a week.

5. Further, as prayed by learned counsel for the appellant, he is permitted to confine the instant appeal to the judgment passed in Writ-A No.6234 of 2010. Appropriate amendments be made in the memo of appeal. He is also granted liberty to file separate appeal challenging the judgment passed in Writ-A No.26356 of 2009.

6. Let counter affidavit be filed by the respondents as well as those who are impleaded in pursuance of the instant order.

7. List after four weeks, along with service report.

8. In the meantime, the appointments, as may have been made by the respondent-Company, in pursuance of the advertisement impugned in the writ petition, would be subject to decision of the appeal.

October 27, 2025
Mukesh Kr.

(Siddharth Nandan,J.) (Manoj Kumar Gupta,J.)