

**IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION**

APPELLATE SIDE

CPAN No. 1439 of 2024

IA NO. CAN 1 OF 2024

IN

WPA 16535 OF 2006

**WORKMEN REPRESENTED BY CHANDITALA DANKUNI FOOD
CORPORATION OF INDIA AND ORS.**

Vs.

MANISH VERMA

Before: The Hon'ble Justice Apurba Sinha Ray

For the Petitioners	: Mr. Shamik Chatterjee, Adv. Mr. Aditya Bikram Mahata, Adv. Mr. Sahil Kabir, Adv
For the Alleged Contemnors	: Mr. Swarnendu Ghosh, Adv Mr. Kamal Kumar Chattopadhyay, Adv. Mr. Aurin Chakraborty, Adv. Ms. Rimi Chatterjee
CAV On	: 14.09.2026
Judgment On	: 22.09.2026

Apurba Sinha Ray, J. :-

1. Mr. Shamik Chatterjee appearing for the petitioners/workmen submitted that 254 workmen approached the Central Government Industrial Labour Tribunal as they were retrenched from their service in

Food Corporation of India ('FCI' henceforth) without notice and without retrenchment compensation. By award dated 6th April 2006, FCI was asked to reinstate the workmen with effect from 1st July 1993. The said order was challenged by the FCI by filing a writ petition being no. WPA 16535 of 2006. By an order dated August 23, 2023, the said writ petition was disposed of in favour of the workmen who were allowed to have retrenchment compensation for 18 years. In spite of such order, the FCI did not comply with the solemn direction of the Hon'ble Co-ordinate bench in letter and spirit and hence this petition of contempt was filed.

2. Mr. Ghosh, appearing for the alleged contemnor/FCI, has submitted that the order dated August 23, 2023 has been complied with in letter and spirit and also after taking into consideration the conditions as enumerated in the said order. Mr. Ghosh has further submitted that out of 254 workmen, 210 who appeared with proper documents of identification were paid retrenchment compensation under Section 25F of the Industrial Disputes Act, 1947. Mr. Ghosh has further submitted that the contention of the petitioner that the workmen are entitled to retrenchment compensation for 18 years, is not correct at all. In this regard, he has drawn the attention of this Court to various paragraphs of judgment dated August 23, 2023 including para 23. According to him, the workmen are entitled to retrenchment compensation only for the period from 1990 to 1993 and not beyond that. Mr. Ghosh has further submitted that although there was a time limit in the above order for filing appropriate applications from the side of the workmen, most of

them did not file the application in time and some of them have filed applications without proper identity documents. But taking a lenient and humanitarian view, the FCI had paid the retrenchment compensation even to those workmen who failed to appear within the stipulated period. Mr. Ghosh has fairly submitted that the FCI is ready and willing to pay requisite amount to the remaining 44 persons who failed to produce proper identification documents, if they again approach the FCI with proper identification documents. By drawing attention of this Court to the affidavit of compliance, Mr. Ghosh has referred to several lists whereby the payments were made to the actual claimants or their near relatives. Mr. Ghosh has categorically submitted that the workmen are entitled to retrenchment compensation only for the period from 1990 to 1993 and not beyond that.

3. After considering the rival contentions of the parties it appears that the issues before this Court are whether the petitioners are entitled to retrenchment compensation for 18 years or they are entitled to such retrenchment compensation for the period from 1990 to 1993, and whether the FCI has complied with the order dated August 23, 2023 in letter and spirit..

Court's view:-

4. The writ petition being WPA 16535 of 2006 was filed by FCI challenging the award passed by the Central Government Industrial Tribunal dated April 6, 2006. In the said order the Presiding Officer of

the Tribunal, held that the demand of the workmen represented by Chanditala Dankuni Food Corporation of India Storing Agents, Mutia Mazdoor Union/the respondent no. 2 with regard to the reinstatement of 254 employees was justified. They were entitled to be employed with effect from July 1, 1993. However, the Tribunal was of the opinion that the said 254 workmen were not entitled to get any “back wages” from July 1, 1993 till the date of the award on April 6, 2006 since the Union did not make any statement with regard to the fact whether the members of the Union were under any gainful employment during the said period. (Vide paragraph No. 1 (b) of the judgment dated 23rd August, 2023)

5. By order dated August 23, 2023 the Hon’ble Coordinate Bench, after considering all the materials on record and submission of the learned Counsel had come to the finding that the learned Tribunal did not commit any error in coming to the findings that the claims of the respondent no. 2/Union remain uncontroverted since the same was not denied on behalf of the FCI. For the purpose of proper understanding, Paragraphs 36 to 41 are quoted hereinbelow:

“36. Therefore, the learned Tribunal to the mind of this Court has not committed any error in coming to the finding that the claims of the respondent no. 2/Union remained uncontroverted since the same was not denied on behalf of the FCI.

37. The learned Tribunal had directed reinstatement with effect from July 1, 1993 in 2006. More than 17 years passed from the date of said Award till the date of this judgment. Therefore, this Court is of the view that no fruitful purpose will be served by insisting upon the reinstatement as the nature of the job that was being performed by the members of the respondent no. 2/Union may have

changed. There may be no further requirement for FCI to engage whether by itself or by any Storing Agent huge number of labourers for loading and unloading of goods at Railway Sidings and storing them at various godowns since it has been submitted that the Railway Wagons are now directly brought into the godowns where the foodgrains are unloaded. Many workmen may also have passed away or be so aged as not to be able to perform such physical work or crossed the age of superannuation.

38. However, this Court cannot be unmindful to the fact that the members of the respondent no. 1 Union were retrenched without any notice or retrenchment compensation.

39. On the basis of the submissions made by Mr. Chatterjee that a sum of Rs.275/- per day was paid to the members of the workmen Union at the time of unlawful retrenchment of their services, this Court is of the view that retrenchment compensation should be paid to the members of the said Union under Section 25F of the Industrial Disputes Act, 1947 taking into account such figure. Such payment shall be made upon producing of proper identification of the 254 members of the Union or their heirs/legal representatives by way of producing their Aadhaar Card or Voter ID Card before the appropriate authority.

40. In the event, a formal claim is made by the Union before the appropriate authority within a period of two months from date upon stating that a sum of Rs.275/- per day was received by each of the members in 1993 and the identity of such members or their heirs can be verified by producing relevant documents, the FCI/writ petitioner no. 1 shall pay retrenchment compensation under Section 25F of the 1947 Act within a period of three months from the date of making such application.

41. With the directions aforesaid, W.P.A. 16535 of 2006 is disposed of.”

6. From the above it transpires that although the Tribunal by its order dated 6th April, 2006 had held that the demand of the workmen

represented by their Union being respondent no. 2 regarding their reinstatement was justified and they were entitled to be employed from July 1, 1993, the tribunal directed the FCI to reinstate 254 workmen by the award dated April 6, 2006 with a rider that the said workmen were not entitled to get any back wages from July 1, 1993 till the date of the award. It appears that although by judgment dated August 23, 2023 the Hon'ble Coordinate Bench came to the finding that the learned Tribunal did not commit any error but the direction of reinstatement as per the award dated April 6, 2006 was modified to the extent that instead of reinstatement, the FCI should pay the retrenchment compensation as per Section 25 F of the Industrial Disputes Act, 1947 but the aforesaid judgment of the Hon'ble Coordinate Bench was not challenged from the side of the workmen in any higher forum. If we go through Section 25F of the Act, 1947 we shall find, provision of such Section is as hereunder:-

“25F. Conditions precedent to retrenchment of workmen.

- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a)the workman has been given one month 's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:[* *] [Proviso omitted by Act 49 of 1984, Section 32 (w.e.f. 18.8.1984).]*

(b)the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days

*'average pay [for every completed year of continuous service] [Substituted by Act 36 of 1964, Section 14, for "for every completed year of service" (w.e.f. 19.12.1964).] or any part thereof in excess of six months; and
(c)notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette.] [Inserted by Act 36 of 1964, Section 14 (w.e.f. 19.12.1964).]”*

7. From Clause (b) of Section 25 F, it appears that retrenchment compensation shall be calculated after taking into consideration ‘for every completed year of continuous service.’ If that be so, I have to again consider the operative portion of the award dated April 6, 2006. For the sake of convenience I again quote para 1 (b) of the judgment dated 23rd August, 2023 as follows:

“b. By the said award, the Presiding Officer held that the demand of the workmen represented by Chanditala Dankuni Food Corporation of India Storing Agents, Mutia Mazdoor Union/the respondent no. 2 with regard to the reinstatement of 254 employees was justified. They were entitled to be employed with effect from July 1, 1993. However, the Tribunal was of the opinion that the said 254 workmen were not entitled to get any “back wages” from July 1, 1993 till the date of the award on April 6, 2006 since the Union did not make any statement with regard to the fact whether the members of the Union were under any gainful employment during the said period.”

8. The above observation of the learned Tribunal was not challenged at the behest of the workmen. The Tribunal was of the opinion that the

workmen were not entitled to back wages from July 1, 1993 since there is no material to show that the members of the Union were under any gainful employment on and from July 1993 to April 6, 2006. Therefore, the Tribunal had recorded that the workmen were not in continuous service from July 1, 1993 to April 6, 2006. This observation of the Tribunal attains finality since the same was not challenged from the side of the workmen. Therefore, as the Hon'ble Co-ordinate Bench directed that retrenchment compensation has to be paid in view of the Section 25 F of the Industrial Disputes Act, 1947, the admitted continuous service of the workmen is to be taken into consideration in view of Section 25 F(b) of the Act, 1947, and, that is, from 1990 to 1993, and not from July, 1993 since admittedly they were not under any gainful appointment.

9. Therefore, I am not impressed with the submission of the petitioners that they were entitled to retrenchment compensation for 18 years. However, once again I record the submission of Mr. Ghosh, appearing for the FCI, who states that even if the remaining 44 persons approach the FCI with proper identification documents the FCI will disburse the amount in their favour and, therefore, this Bench hopes and trusts that such submission should be respected in its proper perspective. I do not find any wilful, deliberate violation of the Order dated August 23, 2023 and hence **CPAN 1439 of 2024** is thus **dismissed**. No order as to costs.

10. Interim order, if any, stands vacated. Pending application, if any, stands disposed of.

11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

12. Urgent photostat certified copies of this judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

[Apurba Sinha Ray, J.]