IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/496/2024

INDIAN OIL CORPORATION LTD.

-VERSUS-

UNION OF INDIA AND ORS.

Present :

The Hon'ble Justice Shampa Dutt (Paul)

For the Petitioner	:	*Mr. Soumya Majumdar, Sr. Adv.* *Mr. Agnibesh Sengupta, Adv.* *Mr. Ranajit Talukdar, Adv.* *Mr. Amit Ghosh, Adv.*
For the Union of India	:	*Mr. Ajit Kumar Mishra, Adv.* *Mr. Suprovat Banerjee, Adv.* *Mr. Anup Dasgupta, Adv.* *Mr. Bhisma Pratap Singh, Adv.*
For the Respondent Nos.2-10	:	*Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.* *Mr. Suvodip Bhattacharjee, Adv.* *Mr. Balaram Patra, Adv.*
Hearing concluded on	:	12.03.2026
Judgment on	:	16.04.2026

SHAMPA DUTT (PAUL), J. :-

1. The present dispute concerns a claim for absorption of 8 (eight) casual workmen in IOCL vide the Order of Reference dated 29th December, 2009.

2. The petitioner's case is that the said 8 (eight) casual workmen named in the Order of Reference were originally the employees of IBP Co. Ltd. at

Budge Budge Liquid Oil Bottling Plant [LOBP], and they were working as temporary security guards.

3. IBP Co. Ltd. merged with IOCL on 30th April, 2007 with the effective date of 1st April, 2004.

4. Previously an industrial dispute was raised by 24 casual workmen claiming absorption in service of IBP Co. Ltd., which resulted in a "No Dispute" award.

5. IBP Co. Ltd. had its Standing Orders, The Standing Orders of IOCL certified as in 2008 permit casual workmen to be a recognized class of workmen.

6. The petitioner's case is that, IBP Co. Ltd. carried out recruitment process in phases between 1992 and 1997, wherein out of the aforesaid 24 casual workmen, 16 had been absorbed in service. It is an admitted fact that the 16 casual workmen, who have been absorbed, were canteen workers. The 8(eight) persons named in the Order of this Reference were temporary/casual security guards. They were differently situated than the canteen workers. There might be a question of regularization/ absorption of canteen workers in the statutory canteen of IBP Co. Ltd. under the Factories Act, 1948. But no such provision exists for security guards.

7. It is stated that, in the Budge Budge Plant, IOCL has rolled out the entire security services to third parties/ agencies.

8. The present dispute was raised in 2007 by these 8 (eight) persons claiming regularization in service, through a written representation.

9. The recorded notes of conciliation, meeting would reveal that Petroleum Employees Union alleged discriminatory treatment adopted by the management of IBP Co. Ltd. in not absorbing the 8 workers by way of an Unfair Labour Practice.

10. In course of adjudication before the Learned Central Government Industrial Tribunal [CGIT], the name of the Union was sought to be changed and Indian Oil Shramik Union made an application for substitution of its name in place of Petroleum Employees Union. Such application was rejected by an order dated 1 January 2019.

11. Learned CGIT has answered Reference No. 19 of 2010 by an award dated 19th December, 2023, which had been published on 18th January, 2024 by the Central Government.

12. **The petitioner argues** that the award records that the 8 (eight) casual workmen were also called for the interview of IBP Co. Ltd. for regularization, but they did not succeed at the interview. Persons not being qualified at interview are barred by the principle of estoppel from claiming the relief which they could have achieved only through the same process. These 8 persons have been treated equally in allowing their participation at their interview. However, they did not succeed. They cannot now turn around and make out a completely different case towards obtaining their relief of absorption.

13. The petitioner further states that the learned CGIT held that the 8 (eight) casual workmen were working as security guards at Budge Budge Plant.

It has also been held that since statutory deduction was made from the monthly wages of the casual workers, they were not to be treated as casual/intermittent workers.

The Tribunal proceeded on the basis that although the 8 (eight) persons were shown as temporary security guards, they had worked in various departments and not as security guards. Such a reasoning is fallacious since every department might have security guards, and placement at the department would not mean that the 8 persons named in the Order of Reference were not rendering the duties as security guards. Furthermore, such a third case made out by the Tribunal is devoid of the pleadings of the Union.

14. It is stated that the learned CGIT has principally proceeded on the basis of the Certified Standing Orders of IBP Co. Ltd. to uphold the claim for absorption. The aspect of victimization of 8 (eight) casual workmen vis-a-vis the 16 workmen absorbed by IBP Co. Ltd. was also aimed against IBP Co. Ltd.

The Learned CGIT held that these 8 (eight) persons have worked for 30 years with IBP Co. Ltd./IOCL and hence they were entitled to be absorbed as Junior Attendants like the previous 16 similarly placed employees with retrospective effect from 1st March, 2004 with all financial benefits to which a regular employee is entitled to.

15. The 16 workers absorbed by IBP Co. Ltd. were canteen workers (as admitted by the Union).

It is stated that the persons working as security guards could not have been directed to be absorbed as Junior Attendants. This would result in creation of posts, rather than absorption in service.

16. The petitioner argues that the impugned award principally proceeds on the failure of IBP Co. Ltd. to absorb 8 (eight) casual workmen. On the purported failure of IBP Co. Ltd., IOCL cannot be made to suffer an award. Creation of posts or directing absorption as Junior Attendants is completely beyond the scope of the Reference. A Tribunal cannot proceed beyond the terms of reference.

17. The Learned CGIT recorded that M.W.1 was not produced for further cross-examination by the Union. Such a finding is contrary to records since M.W. I was produced for cross-examination on three dates. Therefore, the basis for coming to the conclusion is contrary to records hence, The impugned award of the Learned Tribunal thus proceeds on erroneous exclusion of evidence of M.W.1.

18. The petitioner submits that persons working in different posts cannot claim equality for the purpose of treatment towards absorption. Treating unequals as equals is also violative of Article 14 of the Constitution of India.

19. IOCL does not engage regular security guards at its establishment. The policy of IOCL has not been questioned.

20. It is stated that Union had not claimed absorption in the post of Junior Attendant. It sought for permanent treatment of 8 (eight) workmen as security guards.

No evidence has been put forward as regards the similarity of the nature of work performed by the eight persons as security guards and the work of Junior Attendants.

21. By giving a retrospective effect to the relief from 2004, IOCL has been saddled with liability for the period during which it had no control over the Plant.

22. The relief of absorption has been granted w.e.f. 01.03.2004, prior to the appointed date of merger of IBP Co. Ltd. with 10CL; whereas the Scheme of Merger approved by the Hon'ble High Court had only provided for the continuance or transfer of the employees of the transferor company to the new company (IOCL).

The award therefore actually militates against the Scheme of Merger. By giving a retrospective effect to the relief of absorption, the management of IOCL has been cast with an obligation which the Merger Scheme had not envisaged.

23. That impugned award is, thus, liable to be set aside.

24. **The Respondent/Union** on filing their written notes and argument made out a case as follows:-

(a) That all the eight workmen were kept as casual employee by the writ petitioner which is in gross violation of Section 2ra of the Industrial Disputes Act, 1947. That out of the 8 workmen, 2 are still in service. The other have died and/or superannuated.

(b) It is stated that The Fifth Schedule, serial 10 does not permit "To employ workmen as "badlis", casuals or temporaries and to continue

them as such for years, with the object of depriving them of the status and privileges of permanent workmen."

(c) That the writ petitioner used to control, supervise and pay wages which included basic, HRA, bonus, overtime and used to provide the facilities of PF, ESI and Professional Tax to the members of the union which is the deciding factor for ascertaining master servant relation and there exist no contractors.

(d) The writ petitioner used to sanction leave and had power to initiate disciplinary proceeding against the members.

(e) They have failed to produce the interview documents. As such the adverse presumption may be drawn that the respondent workmen were deprived by the petitioner.

25. The petitioner relies upon the following judgments:-

i) 1994 (2) CHN 109 (Sri Arunangshu Chakrabarty vs. M/s. Aaj Kaal Publishers & Ors. [para 27];

ii) 2003 (3) CHN 53 (Organon India Ltd. vs. State of West Bengal) [paras 5 & 6].

iii) (1986) 2 SCC 679 (Comptroller and Auditor General of India vs. K. S. Jagannathan & Anr.) [para 6]

26. Judgments relied upon by the Respondent/Union:-

(i) 2024 SCC online SC 3826 (Jaggo vs. Union of India & Ors. Para-22, 23, and 25)

(ii) 2025 SCC Online SC 221 (Shripal & Anr. vs. Nagar Nigam, Ghaziabad, Para- 12 to 15.)

(iii) 2025 SCC Online SC 1735 (Dharam Singh & Ors. vs. Stte of U.P. & Anr., Para- 17 to 19)

(iv) 2026 Scc online Se 129 (Bhol Nath vs. State of Jharkhand & Ors., Para 12 to 14)

27. Thus from the pleadings of both sides, written notes, arguments and materials on record, the following is evident:

(i) The Scheme of Amalgamation dated 30.04.2007 of M/s. IBP Co. Ltd. with M/s. Indian Oil Corporation Ltd. is on record.

(ii) Clause 3.11(a) of the Scheme lays down :-

> *"**3.11 (a)** With effect from the Appointed Date and upon the Scheme becoming effective, any and all employees of the Transferor Company as on the Effective Date shall become employees of the Transferee Company employed on existing or similar terms and conditions as to remuneration, and **without any breach or interruption of service."***

28. The letter dated 09.04.2007 submitted by the Union to IBP notes the following relevant statements:-

> *"It may be mentioned that they had been called by you in interview in 1994 and 1997. You had been selected 50 workers as permanent in the above two years but they were deprived from the great opportunity.*
>
> *Moreover, you have again selected 16 workers as permanent including 8 no. of workers were Canteen Staff (Contractor's worker) in 2003. In spite of the said workers are working as casual till now, I think it is fully unjustified and illegal for them."*

29. There was a "no dispute" award between the erstwhile company and the Union/workmen, which included the 8 workmen on 3rd October, 2009, wherein the reference was as follows:-

> *"Whether the action of the management of IBP Co. Ltd. Calcutta in not absorbing permanently the services of the 24 workmen mentioned in the Annexure who are employed on call basis is justified ? If not, what relief the concerned workmen is entitled to ?"*

30. The reference was in respect of the management of IBP Co. Ltd. and not the petitioner, IOCL.

31. Finally due to the non-appearance of the Union on several dates, the tribunal passed a "No Dispute" Award.

32. Subsequently 16 workers were absorbed as permanent, but the 8 (eight) Casual workers herein were not given the same benefit.

33. On 27.06.2027 and 17.03.2008, a representation was again submitted by the Union to the petitioner herein.

34. On 23.06.2008, the Union raised the dispute before the Asst. Labour Commission (Central). On the failure of the conciliation the reference was made.

35. The reference dated 29.12.2009 contains the following issues:-

> *"The Schedule*
>
> *Whether the action of the management of IOCL (formerly IBP Co. Ltd.), Budge Budge Plant, Kolkata in not absorbing S/o Shri Mohan Roy, Iquebal Ahemed Khan, Austo Karmakar, Netai Chandra Das, Paresh Sarkar, Bhola Jana, Motilal Shaw and*

Chitta Ranjan Roychowdhury, Casual Workmen is justified ? What relief the concerned workmen are entitled to ?

36. It is on record **t**hat IBPCL, Budge Budge was compelled to absorb the other 16 workmen **as they had resorted to unruly activities,** which led to law and order problems and cessation of work at Budge Budge plant. Admittedly, those absorbed 16 casual workmen were not employed as security guards like present workmen.

37. The eight workmen all work as Security Guards, which the petitioner now states has been outsourced.

38. The Tribunal has held that:-

"it is undisputed fact that eight concerned workmen were/are working at IBPCL/ IOCL, Budge Budge Plant, Kolkata as casual workmen.

*That apart **Exhibit-W-1** shows that Mohan Roy has been working for IBPCL as a **General Workman** since 1989. Exhibit-W-2 temporary staff pay roll for the month of July, 2010 shows that Sri Mohan Roy was paid salary/wages by IOCL, Budge Budge. He was paid Basic Pay HRA and Overtime. From his salary contribution towards EPF. ESI and P. Tax were deducted.*

*Exhibit-W-3 dated 19-08-1991 issued by IBPCL shows that the workman Iquebal Ahemed Khan was called for **interview** for the post of **service staff**. His temporary pay roll for the month of September, 2009 also shows that he was paid Basic pay, HRA,*

Overtime and Bonus. That contribution towards EPF, ESI and P Tax were deducted from his salary.

Exhibit-W-3/1 shows that Sri Austo Karmakar too was called for ***interview for the post of Jr. Operator (Field)*** *by IBPCL on 28th October, 1993. His temporary pay roll for the month of July 2010 also shows that he was paid Basic Pay, HRA, Overtime and Bonus. That contribution towards EPF ESI and P Tax were deducted from his salary.*

Similarly ***Exhibit-W-3/2*** *shows that Sri Netai Chandra Das ton was called for* ***interview for the post of Service Staff/ General Workman*** *by IBPCL in the year 1996 and he has been working for IBPCL since 1992.*

Exhibit W-3/3 shows that Sri Paresh Sarkar too was called for an ***interview*** *by IBPCL on 26th June, 1992. His temporary pay roll for the month of July, 2010 also shows that he was paid Basic pay, HRA, Overtime and Bonus. That contribution towards EPF ESI and P.Tax were deducted from his salary.*

Exhibit -W-3/4 shows that Sri Bhola Jana too was called for an ***interview*** *by IBPCL on 04-07-1992. His temporary pay roll for the month of July, 2010 also shows that he was paid Basic pay, HRA, Overtime and Bonus. That contribution towards EPF, ESI and P Tax were deducted from his salary.*

Exhibit-W-3/5 *shows that Sri Chitta Ranjan Roy Chowdhury was called for an* ***interview for the post of Service Staff/General***

Workman *by IBPCL on 19 December, 1996. His temporary pay roll for the month of June, 2009 also shows that he was paid Basic Pay, HRA, Overtime and Bonus. That contribution towards EPF, ESI and P.Tax were deducted from his salary.*

Exhibit-W-4/1 shows that Indian Oil Corpn issued Identity Cards to Sri Austo Karmakar and Sri Chitta Ranjan Roychowdhury.

Exhibit-W-5 shows that workman Si Mohan Roy, Iquebal Ahemed Khan, Austo Karmakar, Netai Chandra Das, Paresh Sarkar, Bhola Jana, Motilal Shaw and Chitta Ranjan Roychowdhury were working as security guards at BGB since 1989, 1990, 1992 and 1993.

The concerned workmen were engaged by IBPCL after taking interview against casual general posts and not as Security Guards. That they have been working since 1989, 1990, 1992 and 1993 for IBPCL/ later IOCL."

39. Thus, it appears that concerned workmen have been discharging permanent nature of duty for the management of IBPCL and later for IOCL for decades together and they have been paid basic pay with HRA, bonus and overtime. From their monthly gross wages, deduction was made towards EPF, ESI and P. Tax which is not normally done in case of casual workers employed to do intermittent job or sporadic nature of job.

Exhibit-W-5, **note sheet prepared by the management** for submission before Industrial Tribunal in Reference Case No. 15 of 2002, show that the concerned workmen have been shown as

temporary Security Guards at BGB since 1989, 1990, 1992 and 1993 and the remaining 16 workmen as Staff Canteen.

40. The tribunal treating the present 8 workmen as casual temporary workmen held that they were similarly placed as the 16 workmen, who were absorbed, due to their causing disturbance in running of the factory/establishment.

41. Copy of the agreement of amalgamation shows that IBPCL merged with IOCL and on such amalgamation all the rights and liabilities of IBPCL **was transferred along with its employees to IOCL on existing or similar terms and conditions as to the remuneration an without any breach or interruption of service.**

42. The tribunal finally held as follows:-

> *"Therefore, in view of clause 4 of the standing order of IBPCL, a temporary employee who is engaged without any break for a period of three months will be treated as employee on probation to fill a vacancy on the permanent roll and his service for this purpose shall date from the first day of the unbroken period than being served. So, in view of clause 4 of the standing order those eight workmen are entitled to be absorbed against the permanent posts in IOCL/IBPCI."*

43. It appears that the tribunal has held so, by relying upon the standing order of IBPCL, which on amalgamation with IOCL does not exist anymore, IOCL having its own standing order.

44. On hearing both sides, and considering the materials on record, including the impugned award, it appears that, the issue in reference was as follows:-

"Whether the action of the management of IOCL (formerly IBP Co. Ltd.), Budge Budge Plant, Kolkata in not absorbing Shri Mohan Roy, Iqyuebal Ahemed Khan Austo Karmakar, Netai Chandra Das, Paresh Sarkar, Bhola Jana, Motilal Shaw and Chitta Ranjan Roychowdhury, Casual workmen is justified ? What relief the concerned workmen are entitled to ?"

45. The eight workmen were engaged as security guards on casual basis on the basis of selection procedure/interview followed by the management of IBPCL in the years 1990, 1992 and 1993 i.e. much before the amalgamation with IOCL in the year 2007.

46. After passing of such "no dispute award", the management of IOCL had absorbed 16 out of 24 workmen of the said reference in permanent posts w.e.f. 01-03-2003/2004, but excluding the present 8 workmen.

47. These 8 casual workers became the employees of IOCL as per clause 3.11(a) of the Scheme of Amalgamation by the IBPCL.

> ***3.11(a)*** *With effect from the Appointed Date and upon the Scheme becoming effective, any and all employees of the Transferor Company as on the Effective Date shall become employees of the Transferee Company employed on existing or similar terms and conditions as to remuneration, and* ***without any breach or interruption of service.***

48. Thus the service herein is to be taken as continuous since joining IBPCL. It appears that after the 'no dispute' award, there was no challenge to it and was thus accepted by the workmen which included the present 8 casual workmen.

49. Even though the 16 out of 24 workmen were absorbed, no fresh dispute was raised by these 8 casual workmen from 2002 to 2007 (till amalgamation), in spite of there being a fresh cause of action.

50. Thus the said 8 employees remained casual employee as on the date of amalgamation with IOCL and their service conditions remained as with IBPCL.

51. Admittedly, the 16 workers were absorbed subsequently, which these 8 workers claim was by way of "unfair labour practice".

52. From 2002 to 2007, these 8 workers did not raise any fresh dispute claiming absorption, being similarly placed or alleging unfair labour practice by the IBPCL.

53. The case/allegation of **"unfair labour practice"** alleged against IBPCL is not part of the scheme of amalgamation which can shift to IOCL and **the said allegation thus does not apply to IOCL.**

54. The 8 workmen herein are all working in the post of security guards in IOCL since amalgamation and were taken as per the scheme of amalgamation though the security services of the establishment of IOCL/petitioner herein are now being managed by DGR personnel, in view of the Govt. of India, Department of Public Enterprises office memo no.6/22/93-GL-15-DPF(SC/ST) dated 01-02-1994. Therefore, there is no permanent post of security guards in IOCL.

55. The **entry** of the 8 workmen (with IBPCL) was by way of **interview** as has been held by the tribunal as general workers.

56. Though it is admitted that the 16 workmen were absorbed by the earlier management, it is stated that the present workers were allegedly not successful in the interview/examinations, but as **no documents could be produced by the present management,** the tribunal refused to believe their case.

57. **The tribunal by way of documents exhibited also held that the 8 workmen were all engaged as casual/service staff/general workmen and later posed as security guards.**

Conclusion :

58. The 8 workmen herein became part of the petitioner company w.e.f. from 2007, by virtue of the Memorandum of Amalgamation.

59. Clause 3.11(a) therein, states about all employees and with effect from the Appointed Date and upon the Scheme becoming effective, any and all employees of the Transferor Company as on the Effective Date shall become employees of the Transferee Company employed on existing or similar terms and conditions as to remuneration, and **without any breach or interruption of service. Thus, their service tenure is to be calculated from the date they first joined their services with IBPCL.**

60. After a 'no dispute' award on 04.09.2002 in Reference Case No.15 of 2002, in an industrial dispute raised by 24 casual workmen, the management of IBPCL absorbed 16 out of 24, leaving out the 8 petitioners in 2003/2004.

61. The petitioner IOCL agrees that from 2003 to 2007 (till amalgamation), no dispute was raised by these workmen before IBPCL.

62. The petitioner states that IBPCL was compelled to absorb the 16 workmen as they were causing disturbance.

63. The 8 workmen working since the 1990s, then raised a dispute for absorption in 2009, two years after the amalgamation.

64. The Supreme Court in the case of ***Jaggo (supra)*** held as follows:-

> *"**22.** The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.*
>
> ***23.** The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security,*

particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. *The landmark judgment of the United State in the case of Vizcaino v. Microsoft Corporation serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.*

25. *It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:*

Misuse of "Temporary" Labels: *Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and*

benefits that regular employees are entitled to, despite performing identical tasks.

Arbitrary Termination: *Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

Lack of Career Progression: *Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*

Using Outsourcing as a Shield: *Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.*

Denial of Basic Rights and Benefits: *Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.*

26. *While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged*

in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the Judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

***27.** In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and underlines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.*

65. In ***Mahanandi Coalfields Ltd. v. Brajrajnagar Coal Mines Worker's Union in Civil Appeal No(s).4092-4093/2024 decided on 12th March, 2024*** the Supreme Court held:-

"20. *It is proved that the remaining workers stand on the same footing as the regularized employees, and they were wrongly not made part of the settlement. This is established by the Tribunal, by examining the nature of work undertaken by the first set of 19 workmen and that of the other 13 workmen. It also examined Shri Arun Ch. Hota (WW3), the Deputy General Manager (MW2), Mr. Udayshankar Gonelal, the Personal Manager (MW3) and Shri S. Agarwal, the Project Officer (MW4). The Tribunal finally came to the conclusion that the nature of the duties performed by the 13 workmen are perennial in nature. The appellant has failed to establish any distinction between the two sets of workers. The Tribunal was, therefore, justified in answering the reference and returning the finding that they hold the same status as the regularized employees.*

21. *We are also not impressed with the artificial distinction which the appellant sought to bring about between the 19 workers who were regularized and the 13 workers who were left out. The evidence on record discloses that, of the total 32 workmen, 19 workers worked in the bunker, 6 worked in the Coal Handling Plant, and 7 worked on the railway siding. However, of the 19 workers who were regularized, 16 worked in the bunker, and 3 worked in the Coal Handling Plant. However, 3 workers from the same bunker, 3 workers from the same Coal Handling Plant and again 7 workers from the same railway siding were not regularized. A tabulated representation of the above description is as follows:*

Site of work	**No. of workers who executed works**	**No. of workers who were regularized**	**No. of workers not regularized**
Bunker	19	16	3
Coal Handling Plant	6	3	3
Railway Siding	7	-	7
Total:	**32**	**19**	**13**

> ***22.*** *The above-referred facts speak for themselves, and that is the reason why the Tribunal has come to a conclusion that the denial of regularization of the 13 workmen is wholly unjustified. As stated previously, we do not find any grounds in the artificial distinction asserted by the appellant. However, as the case was argued at length we thought it appropriate to give reasons for rejecting the appeals. What we have referred to hereinabove are all findings of fact by the Tribunal as affirmed by the High Court. In view of the concurrent findings of fact on the issue of nature of work, the continuing nature of work, continuous working of the workmen, we are of the opinion that there is no merit in the appeals filed by the appellant.*
>
> ***23. This is a case of wrongful denial of employment and regularization, for no fault of the workmen and therefore, there will be no order restricting their wages."***

66. The documents marked Exhibit W-series show that these 8 workmen working as security guards were engaged by way of an interview, for the posts of general workmen, service staff, Jr. Operator (Field) etc.

67. Thus their entry/employment was by the regular process of an interview and not a back door entry.

68. **36 years have passed.** These 8 workmen remain casual employees even though they perform jobs of permanent nature and having been made to work for such a long period without being regularized is unjustified and an abuse of labour.

69. Though the petitioner claims that these 8 workmen did not succeed in the examination held for regularization, no documents or evidence was placed before the tribunal to substantiate the said statements.

70. These 8 workmen are part of the 24 workmen, out of which 16 workmen have been absorbed and they stand on the same footing as the 16 workmen.

71. Even though the petitioner claims that the 16 workmen were canteen workers and thus could be absorbed, considering the nature of work to be carried out, it is proved before the Tribunal that these 8 workmen though may be made to work as security guards were employed as general casual workers and thus they stand on the same footing as the 16 workmen absorbed.

72. The distinction between the two sets (16 and 8) is clearly artificial, as there was materials/evidence before the tribunal to prove that all the 24 workmen stand on similar footing.

73. The case of the petitioner that these 8 workmen have raised the dispute after a long delay is not a ground to defeat their claim, if the same is legal and justified, as such dispute can be raised at any stage, if it prima facie exists.

74. The 8 workmen get wages which includes HRA, Bonus, Overtime as they discharge permanent nature of duty and GPF, ESI and P. Tax is also deducted from the salary/wages.

75. The petitioner's contention that the company now has outsourced their security service and, as such, the 8 workmen working as security guard cannot be absorbed is not acceptable, considering that they were engaged as "General Casual Workers" and, as such, can be absorbed against any such sanctioned/permanent posts.

76. The petitioners case that the 16 workmen were absorbed as they were causing disturbance cannot be a ground to deny absorption to these 8 workmen, who stand on the same footing, more so, **as no evidence is on record to show that the 16 workmen absorbed were successful in the examination or that these 8 workmen standing on the same footing were unsuccessful.**

77. Admittedly, these 8 workmen are part of the 24 workmen whose industrial dispute/reference ended in a 'no dispute award' in 2002 and the 16 out of 24 were immediately absorbed, leaving out these 8 workmen, giving rise to a fresh cause of action for a dispute.

78. Thus the order of the tribunal requires no interference being in accordance with law.

79. WPO/496/2024 is disposed of.

80. Connected applications, if any, are also disposed of.

81. Certified photostat copy of this Judgment, if applied for, be given to the parties subject to compliance of all requisite formalities.

(Shampa Dutt (Paul), J.)

Later

After the judgment is delivered in open Court, the petitioner prays for an order of stay of the operation of the judgment.

Considering the issue addressed in this judgment, this Court is not inclined to grant the prayer for stay and accordingly prayer for stay is rejected.

(Shampa Dutt (Paul), J.)