**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL No.10499 OF 2011**

Food Corporation of India ....Appellant(s)

VERSUS

Gen. Secy, FCI India Employees Union & Ors. ...Respondent(s)

WITH

**CIVIL APPEAL No.10511 OF 2011**

Food Corporation of India ....Appellant(s)

VERSUS

The Workmen Through the Convener & Anr. ...Respondent(s)

**J U D G M E N T**

**Abhay Manohar Sapre, J.**

1) These appeals are directed against the final judgment and order dated 13.12.2006 passed by the High Court of Madras at Chennai in Writ Appeal No.3383 & 3382 of 2003 whereby the

High Court dismissed the appeals filed by appellant herein.

2) In order to appreciate the short controversy involved in these appeals, few relevant facts need to be mentioned *infra*.

3) The appellant is a Government of India Undertaking known as "Food Corporation of India" (hereinafter referred to as "the FCI"). The appellant is engaged in the business of sale, procurement, storage and distribution of food grains.

4) In order to carry out their business activities, which are spread all over the country, the appellant has established its Branch offices in every State. One such Branch office is at Chennai (TN). The appellant has employed a large number of employees to carry out its business operations through their Chennai Branch office with which we are concerned in these appeals.

5) In the year 1992, a dispute arose between the appellant (FCI) and around 955 employees working in the Branch office at Chennai as to whether these 955 employees are the employees of the FCI or they are employed by the contract labourers' Society to work in the FCI to carry out their business operations

and secondly, whether these 955 employees are entitled to claim regularization of their services as FCI employees.

6) The case of the appellant (FCI), in substance, was that these (955) employees were/are never the employees of the FCI but were/are the employees of a contract labourers' Society though working in the establishment of the FCI for doing their work. It was stated that due to this reason, they are not entitled to claim the status of the employees of the FCI and nor are they entitled to claim any regularization of their services in the set up of the FCI as the employees of the FCI. It was stated that their remedy, if any, would be against the contract labourers' Society engaged by the FCI but not against the FCI.

7) On the other hand, the case of the workers' Union was that these 955 employees are, in fact, the employees of the FCI and being in their regular employment since inception have been discharging their duties regularly for doing the work of the FCI. It was contended that they are therefore entitled to claim the regularization of their services in the set up of the FCI.

8) Since the aforementioned dispute could not be resolved

amicably between the appellant and the workers' Union, the Government of India by order dated 06.04.1992 referred the said dispute to the Industrial Tribunal, Madras for its adjudication under Section 10 of the Industrial Disputes Act, 1947.

9) The following reference was made for adjudication:

> **"Whether the action of the management of Food Corporation of India is denying to regularize 955 contract labourers engaged in management of Food Corporation of India, Godown, Avadi through TVK Cooperative Society in respect of names as given in Annexure is justified ? If not, to what relief they are entitled to?"**

10) Both the parties submitted their statements in ID No. 39/1992 & I.D. 55/1993 in support of their respective stand before the Industrial Tribunal. So far as the workers' Union (respondents herein) is concerned, they adduced the evidence to prove their case whereas the appellant (FCI) did not adduce any evidence to prove their case despite affording them an opportunity to adduce.

11) By awards dated 19.02.1997 & 29.07.1998, the Industrial Tribunal answered the reference in favour of the workers' Union

and against the appellant. It was held that these 955 employees are entitled to be regularized in the services of the FCI.

12) The appellant (FCI) felt aggrieved and filed writ petitions before the High Court of Madras at Chennai. By order dated 07.08.2000, the Single Judge dismissed the writ petitions and upheld the award passed by the Industrial Tribunal. The appellant felt aggrieved and filed intra court appeals before the Division Bench.

13) By impugned order, the Division Bench dismissed the writ appeals and affirmed the order of the Single Judge and the awards of the Industrial Tribunal, which have given rise to filing of the present appeals by way of special leave by the FCI.

14) Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in these appeals.

15) We have perused the awards of the Industrial Tribunal, order of the Single Judge and the impugned order. Mere perusal of them would go to show that the Industrial Tribunal examined the question in right perspective on facts and the evidence

adduced by the Union so also the Single Judge and lastly, the Division Bench.

16) It is evident that the Tribunal, on appreciating the evidence in its original jurisdiction, rightly concluded that firstly, the agreement with the contract labourer for doing the work had come to an end in 1991 and thereafter it was not renewed; Secondly, all the 955 workers were being paid wages directly by the FCI; Thirdly, the nature of work, which these workers were performing, was of a perennial nature in the set up of the FCI; Fourthly, all 955 workmen were performing their duties as permanent workers; and lastly, no evidence was adduced by the FCI in rebuttal to prove their case against the workers' Union.

17) The writ Court then re-examined the issues so also the Division Bench in the appeals with a view to find out as to whether the findings of the Industrial Tribunal are factually and legally sustainable or not. The High Court, by reasoned orders, passed in writ petitions and appeals affirmed the findings observing that none of the findings recorded by the Industrial Tribunal, which were impugned in the writ petitions and

appeals, suffer from any kind of perversity or illegality so as to call for any interference by the High Court in writ petitions and appeals.

18) We are inclined to affirm the concurrent findings because, in our opinion, none of the findings though assailed in these appeals call for any interference.

19) In our opinion, the very fact that the appellant (FCI) failed to adduce any evidence to prove their case, the Industrial Tribunal was justified in drawing adverse inference against them. Indeed, nothing prevented the appellant from adducing evidence to prove the real state of affairs prevailing in their set up relating to these workers. It was, however, not done by the FCI for the reasons best known to them. It was not the case of the appellant (FCI) that they were not afforded any opportunity to adduce evidence and nor any attempt was made by the appellant to adduce any evidence in the writ petitions or in the intra court appeals and lastly even in these appeals to prove their case.

20) That apart, in our opinion, the four findings of fact

recorded against the appellant by the Industrial Tribunal were based on sufficient evidence adduced by the workers' Union. Indeed, these findings being concurrent in nature are binding on this Court while hearing appeals under Article 136 of the Constitution.

21) These findings, in our opinion, were equally relevant for answering the question referred to the Tribunal and further they did not suffer from any kind of perversity or illegality so as to call for any interference as rightly held by the High Court.

22) In the light of the foregoing discussion, the reference was rightly answered in favour of the workers' Union.

23) It was then brought to our notice that similar industrial reference alike the one in the present case was also made in relation to the FCI Branch at West Bengal and the said reference was answered in favour of workers' Union. The matter was then taken to the High Court unsuccessfully and then carried to this Court at the instance of the FCI in Civil Appeal No.7452 of 2008 and the appeal was dismissed on 20.07.2017 resulting in upholding the award of the Industrial Tribunal. It was stated

that the FCI then implemented the award, as is clear from the notice on 05.10.2017, in favour of the concerned workers. Be that as it may, since we have upheld the impugned order in this case on the facts arising in the case at hand, we need not place reliance on any other matter, which was not before the High Court.

24) In the light of the foregoing discussion and examining the issues arising in these appeals from all angles, we are of the considered opinion that the appellant (FCI) failed to make out any case, which may call for any interference in the impugned order.

25) In view of the foregoing discussion, the appeals fail and are accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[SANJAY KISHAN KAUL]

New Delhi;
August 20, 2018

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL Nos.10502-10505 OF 2011**

K.K. Suresh & Anr.Etc. ....Appellant(s)

VERSUS

Food Corporation of India
& Ors. Etc. ...Respondent(s)

**J U D G M E N T**

**Abhay Manohar Sapre, J.**

1) These appeals are directed against the final judgment and order dated 28.06.2007 passed by the High Court of Kerala at Ernakulam in Writ Appeal No.479 of 2002 and Writ Appeal No.480 of 2002 whereby the High Court, by a common judgment, dismissed the appeals filed by the appellants herein. Against the said order, the appellants filed review petitions which were disposed of by the High Court by order dated 23.08.2007 in R.P. No.767 of 2007 in Writ Appeal No.479 of

2002 and R.P. No.768 of 2007 in Writ Appeal No.480 of 2002.

2) In order to appreciate the short controversy involved in these appeals, few relevant facts need to be mentioned *infra*.

3) The appellants claiming to be working as clerical staff filed writ petitions against the Food Corporation of India-FCI(Respondent No. 1 herein) in the Kerala High Court and prayed therein that their services be regularized on their respective posts on which they were working since 1997 in the set up of FCI. In other words, the appellants (petitioners therein) claimed a relief of regularization of their services in the set up of FCI as regular employees of the FCI.

4) Respondent No.1 (FCI) contested the writ petitions *inter alia* on the ground that the appellants are not the employees of the FCI and nor were they ever appointed by the FCI in their set up but they (appellants) were appointed as clerical staff by one Co-Operative Society called "FCI Head Load workers Co-Operative Society". It was, therefore, contended that in the absence of any kind of relationship of the employer and the employee between the appellants and the FCI, a relief of either

absorption or regularization in the services of the FCI does not arise and nor any relief of this nature can be granted to the appellants against the FCI.

5) The Single Judge of the High Court, by order dated 16.01.2002, dismissed the appellants' writ petitions. The appellants felt aggrieved and filed intra court appeals before the Division Bench. By impugned order, the Division Bench dismissed the appeals and affirmed the order of the Single Judge, which has given rise to filing of these appeals by special leave by the unsuccessful writ petitioners.

6) Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in these appeals.

7) In our considered opinion, the writ Court and the Division Bench were right in dismissing the appellants' writ petitions and we do not find any reason to differ with the view taken by the two Courts below.

8) In the first place, the appellants failed to adduce any

evidence to prove existence of any relationship between them and the FCI; Second, when the documents on record showed that the appellants were appointed by the FCI Head Load Workers Co-Operative Society but not by the FCI then obviously the remedy of the appellants, if at all, in relation to their any service dispute was against the said Society being their employer but not against the FCI; Third, the FCI was able to prove with the aid of evidence that the appellants were in the employment of the said Society whereas the appellants were not able to prove with the aid of any documents that they were appointed by the FCI and how and on what basis they claimed to be in the employment of the FCI except to make an averment in the writ petitions in that behalf. It was, in our opinion, not sufficient to grant any relief to the appellants.

9) So far as the reference made by the appellants to one litigation decided by the Industrial Tribunal between one set of persons and the FCI regarding the status of such persons is concerned, in our view, it has no relevance for deciding this case and nor it, in any way, helps the appellants for claiming relief

against the FCI.

10) It is for the simple reasons that first, the case at hand arose out of the writ petitions whereas the case relied on arose out of industrial reference decided by the Industrial Tribunal; Second, the facts involved in the case at hand clearly prove that there did not exist any kind of employee and employer relationship between the appellants and the FCI; and lastly, there is no parity of any nature noticed on facts in the case at hand and the case relied on by the appellants.

11) In view of the foregoing discussion, we find no good ground to take a different view than the one taken by the two Courts below.

12) The appeals are thus found to be devoid of any merit. They are accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[SANJAY KISHAN KAUL]

New Delhi;
August 20, 2018

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL No.10530 OF 2011**

Food Corporation of India& Anr. ….Appellant(s)

VERSUS

Head Load Labour Congress
(Regn.No.336/85) & Anr. …Respondent(s)

WITH

**CIVIL APPEAL No.7961 OF 2014**

Food Corporation of India& Ors. ….Appellant(s)

VERSUS

Thrissur Jilla General Mazdoor
Sangh FCI Unit represented by
Its President A.K. Suresh Kumar
& Ors. …Respondent(s)

**J U D G M E N T**

**Abhay Manohar Sapre, J.**

1) These two appeals namely Civil Appeal No.10530 of 2011 and Civil Appeal No.7961 of 2014 are directed against the final

judgment and order dated 15.02.2010 passed by High Court of Kerela in Writ Appeal No.249 of 2009 which arose out of order dated 22.09.2009 passed by Single Judge in O.P. No.14360 of 1999 and against another final order dated 20.03.2014 passed by the High Court of Kerala in Writ Appeal No.1746 of 2013 which arose out of an order dated 04.09.2013 passed by Single Judge in W. P. (C) No.14786 of 2013 respectively.

2) Though these appeals arise out of an order passed by the High Court of Kerala, but we find that these appeals also involve more or less the same point which we have dealt with in detail in our order passed today (20.08.2018) in Civil Appeal No.10499 of 2011, Civil Appeal No.10511 of 2011 **(Food Corporation of India and Ors.** vs. **Gen. Secretary, FCI India Employees Union and Ors.)** which arose from the orders passed by the High Court of Madras.

3) The present two appeals appeals are filed by the FCI against the Workers' Union of different branches, the only difference being that the Civil Appeal No.10499 of 2011 and Civil Appeal No.10511 of 2011 relate to employees working in

Chennai Branch Office of FCI, whereas the present appeals (C.A. Nos.10530/2001 and 7961/2014) relate to employees working in depots at West Hills Mavelikkare and Chelakkudy in State of Kerala and, therefore, these appeals came to be decided by the High Court of Kerala.

4) In short, the facts of the present two appeals are that the writ petitions were filed by the workers' Union against the appellant (FCI) seeking a mandamus against the appellant (FCI) directing them to implement the award (Ex.P-1) passed by the Industrial Tribunal, Chennai also in relation to the employees working in Branch offices at Kerala named above.

5) The said award (Ex.P-1) directed the FCI to give benefits of regularization of the workers in the services of the FCI consequent upon abolition of contract laborers system in relation to Branch office at Chennai. This award (Ex.P-1) was upheld by this Court and attained finality.

6) The High Court, by impugned order, allowed the writ petitions filed by the workers' Union (respondents herein) and directed the FCI to give benefits of the said award to the

members of the workers' Union (respondent herein), who are working in two depots at Kerala finding no dissimilarity in two set of these cases.

7) We also do not find any justifiable reason(s) to deny the relief granted by the High Court to the writ petitioners (respondents herein) insofar as these two appeals are concerned. It is more so when no distinguishing features were pointed out by the appellants on the facts or law, which may persuade this Court to take a different view than the one taken by the High Court in the impugned order. What were pressed into service were only the technical issues arising in the case but we were not impressed by such issues. They did not go to the root of the case.

8) Having regard to the totality of the facts and circumstances of the case coupled with the judicial orders passed against the appellant in relation to identical matters, we find no good ground to take any other view in the case than the one taken by Madras High Court in similar case and in the impugned orders.

9) In the light of the foregoing discussion, these appeals also fail and are accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[SANJAY KISHAN KAUL]

New Delhi;
August 20, 2018