

The Odisha Gazette



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1328 CUTTACK, TUESDAY, JULY 9, 2024/ASADHA 18, 1946

LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 29th June 2024

S.R.O. No. 344/2024—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 30th March 2024 passed in the I.D. Case No. 01 of 2018 by Presiding Officer, Labour Court, Jeypore to whom the industrial dispute between the M/s. Utkal Alumina International Ltd. (UAIL), At Doraguda, P.O. Kucheipadar, Dist. Rayagada, 2. M/s. Sri Ram Constructions, Indiranagar, 3rd Lane, Near Ring Road, Dist. Rayagada and (1) Bhabani Charan Satapathy, S/o Kali Charan Satapathy, At/P.O. Surad, Dist. Ganjam and 11 others, namely; (2) Dilip Kumar Pradhan, (3) Basudev Sahoo, (4) Rajesh Kumar Panda, (5) Dilip Kumar Achary, (6) Durga Prasad Pattanaik, (7) Jyoti Ranjan Jena, (8) Ramesh Chandra Pradhan, (9) Vivek Kumar Singh, (10) Rajendra Narayan Swain, (11) G. Ananta Krishna, (12) Abhisekh Kumar was referred to for adjudication is hereby published as in the schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, JEYPORE, DIST. KORAPUT

INDUSTRIAL DISPUTE CASE NO. 01 OF 2018

Dated the 30th March 2024

[U/s. 10 & 12 of the Industrial Disputes Act, 1947]

Present :

Shri Bidyadhar Prusty, M.A., LL.M.,
Presiding Officer,
Labour Court,
Jeypore.

Between :

- | | |
|---|----------------------------|
| 1. M/s. Utkal Alumina International Ltd. (UAIL),
At Doraguda, P.O. Kucheipadar,
Dist. Rayagada. | .. First Party—Managements |
| 2. M/s. Sri Ram Constructions,
Indiranagar, 3rd Lane, Near Ring Road,
Dist. Rayagada. | |

Versus

(1) Bhabani Charan Satapathy, . . . Second Party—Workmen
 S/o Kali Charan Satapathy,
 At/P.O. Surad, Dist. Ganjam and 11 others, namely:
 (2) Dilip Kumar Pradhan, (3) Basudev Sahoo,
 (4) Rajesh Kumar Panda, (5) Dilip Kumar Achary,
 (6) Durga Prasad Pattanaik, (7) Jyoti Ranjan Jena,
 (8) Ramesh Chandra Pradhan, (9) Vivek Kumar Singh,
 (10) Rajendra Narayan Swain, (11) G. Ananta Krishna,
 (12) Abhisekh Kumar

Appearances :

1. Shri B. P. Tripathy & Associates, Advocate	. . .	For the First Party—Management
2. Shri G. B. Samantray, Advocate	. . .	For the Second Party—Management
Shri K. N. Samantray	. . .	For the Second Party—Workmen
Date of Argument	. . .	21-03-2024
Date of Award	. . .	30-03-2024

The matter arises out of a reference submitted by the appropriate Govt. under Section 12 (5) read with S.10(1) (c) of the Industrial Disputes Act, 1947 (for brevity hereinafter referred as I.D. Act, 1947) in the matter of the industrial disputes between both the parties.

1. Brief facts of the case of the 2nd party workmen is as follows :

The present workmen have filed the present case against the managements No.1&2 claiming for their regularization and back wages under the permanent roll of management No.1. This case is the outcome of the reference of the appropriate Govt. relating to the industrial disputes between the parties. The present workmen averred that they are locally established and are residing in nearby places of Doraguda, where UAIL is commissioned by Aditya Birla Group of Companies in the district of Rayagada. They averred that they have legitimate rights and genuine claims for the employment in view of their eligibility, educational backgrounds and the professional qualifications together with previous experiences. Accordingly they were called upon to face the selection process and interviewed by the management officials of UAIL. On being selected, they were appointed on contractual basis in different departments as required by the authorities of UAIL. But their salaries were paid not directly by UAIL but through different outsourced Paying Agencies who had taken the sham labour contracts, for extraneous reasons. Their further contention is that the *mala fide* intention of the management of UAIL during the commissioning of the Plant was to get their services against UAIL's perennial jobs, but their remuneration were paid through different and variable Paying Agencies, although their salaries were fixed, increased with increments by the UAIL Authorities alone. They were issued gate passes to enter into the prohibited areas of the establishment of management No.1. Similarly, the duties and responsibilities allotted to them by UAIL were directly supervised and controlled by the UAIL authorities only, in the interest of UAIL. At no point of time the Paying Agencies supervised their duties on day-to-day basis. Their further contention is that they were assured by the HR Head of the Principal Employer (UAIL) that the HR Dept. has already

initiated the proposal to permanently absorb and regularise their services of all the sincere and honest performers against the perennial nature of jobs only after the plant becomes operational and their services shall be on UAIL Permanent Roll. As such, they, with hope awaited the approval from the competent authority and in the meanwhile some of them were taken to Permanent Roll of UAIL, except the present workmen. They further averred that around the year 2014-15, the Aditya Birla Group at its Mumbai Office approved by way of sanctioning 15 number of posts for regularisation and absorption of their services. They contended that these approvals were made because in similar situations the different claimants were given permanence to the job held according to their qualification and experience from the date of their eligibility. They further averred that their initial salaries ranging from Rs. 8,000 to Rs. 25,000 and they were also given due increments by UAIL at par with permanent employees of UAIL and they were as on the 31st March 2017, drawing salaries ranging from Rs. 10,000 to Rs. 35,000 after increments basing on honesty, merit, suitability, performances and sincerity in due discharge of their duties allotted by UAIL directly, irrespective of the change of contractors/paying agencies. They further averred that having accrued their rights over the perennial nature of posts, therefore legitimately expected that their respective services from their respective dates of joining in contractual appointments since 2009 onwards, shall be regularised and also to be absorbed in UAIL's permanent employees roll and they will draw their salaries not from Contractors/Paying Agencies (i.e. indirectly from UAIL), but from the UAIL establishment directly, being in UAIL Roll. They further averred that when many of name sake contractors/paying agencies have changed, they were continuously working in their respective posts without any break under the direct control and supervision of UAIL officials. Even they were worked, when there was no contractor/paying agency engaged by the Management No.1 and arrangements were made for payment of their wages retrospectively. It all shows that they were working under the direct control and supervision of Management No.1. While the matter stood thus, after the retirement of HR Head of UAIL, the new incumbent joined and realised that he had discretion to appoint his kith and kin and otherwise for corrupt practices to satisfy his vested interests and wanted to remove the present workmen with *mala fide* intention. On the 1st April 2017, as apprehended earlier, while they were going to work, the security staff of UAIL did not allow them to enter the premises and to work as before, without any written disengagement/termination letters, as the case may be which are required under the law of the land. Thereafter they immediately approached before the Labour Authorities, Rayagada for justice. But under the pressure of UAIL, when their case was not taken up by district labour authorities, as deserved, they had approached before the Hon'ble High Court of Orissa in W.P.(C) No. 8543/2017, wherein on the 12th May 2017 a direction was issued to the Labour Authorities, Rayagada to take up the matter as grievance under Section 12 of the I.D. Act. Accordingly, thereafter, the matter was referred to conciliation. On being noticed, the UAIL opposed the dispute and stated that the present workmen are working under licensed contractors and not as workmen under I.D. Act, and they cannot claim any relief as prayed. As the contract period expires, their jobs got stopped. Also it was stated that no back wages can be paid by UAIL. On being noticed, the paying agencies/contractors, namely M/s Sri Ram Constructions (M-2) had participated and stated that it has never recruited workmen. These workmen were not reporting to it. Rather they were reporting to the department heads of UAIL and it was their paymaster only. The concerned departments of the UAIL was certifying the muster roll of these workmen for making payment and processing of bill by Management No. 2. The work order through which these workmen were employed was in force till the 31st March 2017 and the same was not renewed, so it could not continue their employment. So it issued notice to all concerns relieving from their employment after the 31st March 2017 and requested them to settle their full and final dues at the accounts department. The case before the conciliation officer was adjourned to the 19th June

2017, then to 28th June 2017 and then to 15th September 2017. On the last mentioned date, the management No. 2 and the workmen were present, but the Management No. 1 of M/s. UAIL neither attended the conciliation nor communicated their stand on the dispute raised by the workmen. As such, the conciliation officer expressed his inability and held that there could not be any amicable settlement between the parties in the present industrial dispute in question, although the referred contract agreements with labour contractors are simply sham in nature, camouflaged and void ones, and as such the petitioners were 'workmen' of UAIL and they have had genuine and legitimate claim for regularization with back wages. After analysis of fact on records, the Conciliation Officer further held that having no amicable settlement between the parties, the conciliation proceeding ended in failure and the report under Sec.12(4) of I.D. Act submitted on the 22nd December 2017 to appropriate authorities. Then they waited another two months but there was no response from the State Labour Authorities. Therefore, they were forced to approach before the Hon'ble High Court in W.P.(C) No. 1039/2018, wherein on the 12th February 2018 a direction was issued to the State Labour Authorities to take up the matter. Accordingly, thereafter, the matter was referred by Appropriate Govt. to this Court for adjudication. They further averred that despite being the genuine workmen of UAIL, they are harassed by the management of UAIL, under a sham contract agreement with varied paying agencies which was unfair labour practice and not valid under the law. They further contended that there are series of judicial decisions and precedents in respect of the issues involved in the present case, similar to the cases of denials of regularisation as well as non-payments of salaries at par with permanent employees. With the above averments, they prayed to answer this reference in favour of the 2nd party workmen and direct the 1st party management No. 1 to declare them as the employees of Utkal Alumina International Limited since the date of their joining and fix their pay and service conditions at par with its regular employees. To direct the UAIL Management No.1 to release their arrears and current remunerations/salaries/wages as on the 31st March 2017 w.e.f. the 1st April 2017. To direct the UAIL Management No. 1 to hold recruitment/placement of personnel against their vacancies/posts from the existing candidates on temporary roll in UAIL alike them / with outside fresh candidates and to grant any other proper and equitable relief in their favour in the interest of justice.

2. Brief facts of the case of the 1st party management No.1 is as follows :-

On receipt of notice, both the managements have entered their appearance and filed their respective separate show causes. In its show cause, the Management No.1 has averred that the demands of the workmen who claims regularization in service in the industry are not its employees and there was no such master and servant relationship exists at any point time in between them. The 1st Party Management No.1 has used to engage the contractors to do the job of petty works for the time at requirement. The contractors are engaged different people according to their choice and such workers receive their wages etc. from the contractors who use to engage them. The 1st Party Management No. 1 is neither the pay master nor the disciplinary authority or controlling authority in any manner. As such the claim is not sustainable in law. It contended that the first party management No.1 i.e. Utkal Alumina International Ltd. is a wholly owned subsidiary of Hindalco Industries Ltd., Aditya Birla Group. It is an Alumina Refinery comprising of 1.5 MTPA refineries, 90 MW CGPP. It has its captive bauxite mines at Baphlimali, 20 km away from the plant location. The first party management No.1, after obtaining required registration in that behalf, commenced its factory and started its commercial productions from December, 2013. It contended that there are sizable numbers of employees employed under the first party management No.1. In some specific nature of work, it has been engaged contractors, who are to carry out certain works of the factory of the first party management No.1 on work order basis for stipulated period, as per needs. The

establishment of the first party management No.1 has been duly registered under the Contract Labour (Regulation and Abolition) Act, 1970 (for short, the CLR Act) and the contractors coming under the purview of the Act have been licensed under the said Act. It averred that the management No. 2 was engaged to undertake some jobs on contract basis and in order to perform the same, he had engaged 11 numbers of the members of the second party workmen as contract workers. On completion of the contract period, the said contractor offered the legitimate dues of the above contract workers. As such, the second party workmen cannot seek to ventilate any grievance against this first party management No.1, they having not been employed by it, at any point of time. It further contended that the allegations brought in against the first party management No.1 in the statement of claim, are unfounded and as such, are denied. At any rate such allegations in no way have any relevance to the purported dispute raised on behalf of the second party workmen. The first party management had appeared before the conciliation proceedings held by the Deputy Labour Commissioner, Rayagada as and when required. It is asserted that the first party management No.1 had participated in the conciliation proceeding which ended in failure. It averred that the officials of the first party management No.1 had never made any oral interview as alleged by the second party workmen. There is only occasional inspection regarding the work performance *vis-a-vis* the requirement of the first party management No.1. As per the claim of the contractor, first party management No. 2 regarding wages of the second party workmen, as principal employer, the first party management No.1 ascertains that the contractor, first party management No. 2 makes payments of wages to the members of the second party workmen. The contractor, first party management No. 2 recruits his own men, supervises their work and finally makes payment to his respective employees which is ascertained by the first party management No.1 only. It further contended that the HR Head of the principal employer (UAIL) had never initiated any proposal to absorb and regularize the honest and sincere performers from among the members of the second Party Workmen after the plant becomes operational. The second party members have no direct interaction with the first party management No. 1 or for that purpose any of the management staff. These are the own imagination and creation of the members of the second party workmen. It further contended that the averments and submissions made in the statement of claim, itself expose the ill-intent of the members of the second party workmen in their vain efforts to scandalize the first party management No.1 before the various Governmental Authorities in order to sub-serve their selfish ends. It further submitted that the members of the second party workmen having been engaged by the contractor for specified period, after expiry of the period and the job contract was over, the gate pass of the respective employees of the contractor were seized. Their engagement having come to an end they could not have been allowed entry inside the premises of the factory area. It is submitted by the management No. 1 that in the statement of claim, the second party members have referred to various decisions of the Hon'ble Apex Court, which has not been disputed by it regarding the position of law. But, the second party workmen are not in same footing so as to be covered by the ratio of the above decisions. They being contract employees and engaged by the contractor to perform specified job, the referred decisions may not have any assistance to them. The position of law as referred to in the statement of claim is inapplicable to the facts and circumstances of the case of the second party members and as such, the cited decisions may not benefit them in any manner. The members of the second party are employed by the first party management No.2, the contractor who is also their paymaster. It further contended that the reference is wrong and without jurisdiction and as such may not maintainable before this Court as there is no dispute at all under the I.D. Act, 1947 and the matter is comes under the provisions of CLARA, 1970, since both the managements are registered and licensed under the said Act, 1970. with the

above averments, the 1st party management No.1 has submitted that no relief much less the fallacious relief sought for in the prayer to the statement of claim, could be granted in favour of the second party members or any relief at all, and as such, the reference may kindly be answered in the negative disentitling the members of the second party to any relief, whatsoever.

3. Brief facts of the case of the 1st party management No. 2 is as follows;

The management No. 2 in its show cause has denied the allegations made by the second party workman. It is submitted that the second party workmen were previously engaged with Mytri Infra and as requested, the First Party Management no. 2 had given them work on contractual basis, after it got contract from management No 1. The first party management No. 2 had made the workmen to understand the engagement of work was purely temporary and month to month basis. The second party workmen assured the first party management No. 2 that they shall not claim any service benefit as regular permanent employees in future and agreed to work as contract labourer under the first party management No. 2 and as such they were engaged to work as contract labourer under which he had undertaken the work, as per the direction of first party management No. 2. It further averred that the present workmen are well aware of the nature of their work and the allegation that they only got information of change of contractor at the time of payment only is not true. It is not true that they had no relation with the contractors as the contractors were never supervising their work. They never gave any leave application to any contractor as alleged. The fact remained that the 1st party management No. 2 had continuous supervision and control over the works of the present workmen through its staffs, while working in the establishment of management No.1 during the contract period. It further contended that when the work order was completed on 31st March 2017, the first party management No. 2 relieved the present workmen from their posts by giving notices with the option to settle their full and final dues at the accounts department. It further, averred that there is no dues pending of the present workmen with it. It also contended that the case of the second party workmen is not maintainable in law since the same is barred by law of limitation and on the principles of estoppel. Thus it submitted that the case of the second party workman is devoid of any merit and not liable for any consideration. Hence it prayed to reject the reference in the interest of justice.

4. Schedule of the references:

(a) "Whether the contract between M/s. Sri Ram Constructions, Indira Nagar, 3rd Line, near Ring Road, Rayagada-765001, Odisha (Contractor) and M/s. Utkal Alumina International Ltd., At. Doraguda, P.O. Kuchipadar, Rayagada-765015, Odisha (Principal Employer) was genuine or it was rose/sham and whether the workmen namely Shri Bhabani Charan Satapathy and 11 others, whose services were terminated w.e.f. the 1st April 2017 are entitled to be absorbed on the rolls of M/s. Utkal Alumina International Ltd. w.e.f. the 1st April 2017"?

5. In order to establish their case, the 2nd party workmen have examined as many as eleven (11) numbers of witnesses on their behalf and also relied on several documentary evidences. On the other hand, the management No.1 has examined one witness on its behalf as M.W. No.1 and management No. 2 has examined one witness on its behalf as M.W. No. 2. Apart from the oral evidences, both the managements have also relied on several documentary evidences.

6. Learned counsel for the workmen Mr. Samantray has submitted that the present workmen are directly employed by the management No.1 in the year 2009 after facing the oral interview and verification of the relevant documents by the officers of the management No.1. After their

engagement, they were directly worked under the control and supervision of the officers of the management No. 1, at different departments of management No. 1 as evident from the statement of W.W. 11, who was the ex-manager of Materials Deptt. of management No. 1. But the name sake contractors like Management No. 2 are only the paying agencies. He further submitted that Exts. 1 to 14, Exts. 52, 53, 54, etc. proved the fact that the present workmen were paid through the name sake contractors by way of giving work orders/purchase orders. He further submitted that the present workmen were working under the direct supervision and control of the officers of management No. 1 as the other regular employees were working. No name sake contractors at any point of time supervise the work of the present workmen within the establishment of management No. 1. Even the present management No. 2 has admitted in its statement deposed before D.L.O., Rayagada that the present workmen were not their employees during the conciliation proceeding marked Ext. 28. Even M.W. 2 during his evidence in Para. 36 has clearly stated that he has no idea about Ext. 28. So he submitted that from the evidence of M.W. 2 and Ext. 28, one thing is clear that the present workmen are not the labourers of management No. 2 but the employees of the management No. 1. He further submitted that the present workmen were working under the Materials Deptt., Store, Purchase and Weigh Bridge Sections of the said Deptt., which are perennial nature of jobs and an important part of the function of the establishment of the management No. 1. Without the contribution of the present workmen, the operation of the establishment is not passible and hence an essential nature of job, the workmen were performing. The area where the present workmen were performed their works are prohibited one and no one has access into it without the permission of management No. 1. For that reason, gate passes were issued by the security officer of management No. 1 as evident from Exts. 25 series, which discloses that the management No. 1 has effective control over the works of the workmen. This fact has also admitted by the witness of management No. 1 as M.W. 1 during his cross-examination. He further submitted that there were disciplinary control and the security of the workmen bestowed on the officers of the management No. 1, but not in the hands of the so called contractors, since they were working in the sensitive security region of the establishment. He further submitted that the wages of the workmen were fixed by the management No. 1 and paid accordingly, which shows its financial control. He further submitted that the management No. 1 has took the attendance of workmen and managing the attendance registers. But the managements have failed to adduce any such register, which is under its control during hearing of this case. He further submitted that although the name sake contractors were changed, but the workmen/labourer were the same throughout the years together. Not only this, he submitted that the present workmen were paid less wages than the wages of regular employees for performing the same nature of work, which amounts to Unfair Labour Practice. He further submitted that the so called contractors, including the present management No. 2 were not registered as required under the provisions of the contract labour (Abolition & Regulation) Act, 1970 (CLARA) to carry out the desired works within the materials department of management No. 1 as evident from Ext. P and Ext. Q. No document of registration of other name sake contractors have been filed by the management No. 1 during hearing to prove its contention as required U/s. 11 of the CLARA, 1970. This shows that the management has violated the norms of CLARA, 1970. The so called contractor management No. 1 has no valid contract license to engage contract labourers as per the purchase order vide Ext. Q. There is no contract agreements between the management and the so called contractors. There was no tender floated for the engagement of contractors for this purpose. Not a single piece of documents has filed by the management to that effect. Thus he submitted that the so called work/purchase orders issued in favour of the so called contractors, for engagement of contract labourers are only sham documents, in order to s t i f l e

the legitimate right of the present workmen. He further submitted that there are sufficient vacancies in the establishment to absorb the present workmen, who are having a suitable and requisite experience of more than 5-7 years. So he submitted to pass necessary orders for absorption of the present workmen into the permanent roll of management No.1 along with their back wages and other service benefits. In support of his averments, he placed his reliance in the following decisions.

Paradip port trust vs. their Workmen & Ors. (2004) suppOri Law Review 753, Gujrat Electricity Board, Thermal Power Station, Gujrat Vrs. Hind Majdoor Sabha & Ors. 1995 SCC 790, Secretary, H.S.E.B vs Suresh Ors AIR 1999 (SC) 1160, Fakir Lohar vrs. FCI & Ors. 1993 (Supp) LLJ, 80 Cal., Steel Authority of India Ltd. & Ors Vrs. National Water Front Workers Union & Ors. 2001 (II) LLJ 1087 SC, Jamsedpur Contractors Works Union Vrs. State of Bihar & Ors. 1994-III-LLJ (Supp) 376 SC, Suresh Kumar & Ors. Vrs. Union of India & Ors. 2004 LLJ 53, (Del.), Hussainbhai Calicut Vs. The Alath Factory Thezhilali Union, Kozhikode & Ors AIR 1978 (SC) 1410, Denanath & Ors. Vrs. National Fertilisers Ltd. & Ors. 1992 SC 1292, Hindustan Petroleum Corporation Ltd., Mumbai and Ors. Vs. Presiding Officer. (CGLC) & Ors. (2008) indiankanoon.org, Mad., and Mahanadi Coalfields Ltd. Vrs. Brajarajnagar Coal Mines Workers' Union (2024) indiankanoon.org, SC.

7. Learned Counsel for the management No.1 Shri Tripathy has submitted that since, the workmen are employed under the labour contractors, there is no direct relationship of employer and employee or master and servant relationship between the management No.1 and the present workmen. He further submitted that the present workmen are the labourers of Management No. 2. He submitted that the management No.1 has obtained the required license from the appropriate authority to engage contract labour system to do certain works for the functioning its establishment through labour contractors as evident from Ext.L and other license issued from time to time. Accordingly contractors were appointed by issuing of work/purchase orders for accomplishment of different works. He further submitted that the labour contractor, management No. 2 has requisite license as per the provisions of the CLARA, 1970 to engage contract labourers as evident from Ext.P. The said contractors had engaged the present workmen for different works as per the terms of purchase/work orders in the establishment of the management No. 1. There is no direct payment of wages to the present workmen. The contractors were paid the wages to its labourers after receiving the same from the management No.1. The management never had any control over the present workmen. The management No.1 had never appointed the present workmen through direct interview and never issued any appointment letter in their favour. Since they are contract labourers, they are not workmen as defined under Section 2(s) of the I.D. Act, 1947. He further submitted that there is no violation of any provision of the CLARA, 1970 and Rules made thereunder. Further the said labourers are employed in certain specific work, as per the work/purchase orders under their contractors for certain period of time and when the terms of contract was over, the question of continuance of work claimed by the present workmen does not arise. The present workmen had never worked for 240 days in a year, so as to qualify to be the workmen. Merely the present workmen worked in the establishment of management No.1, *ipso facto*, cannot say that they are its regular employees. They are contract labourers, employed through their respective contractors and hence, their claim for regularization or absorption into permanent roll of management No. 1, does not arise. He further submitted that there was no question of practice of unfair labour practice as claimed. The wages were paid to the labourers as per the norms of the Government and there is no deviation at all. The labourers cannot claim equal status to that of regular employees of the management No.1. He further submitted that the statement of claim filed by Bhabani Charan Satpathy on behalf of other workmen has no valid authority to file the same and hence the same is not

maintainable. He further submitted that the present reference is bad and not maintainable under the I.D. Act, 1947 as the matter comes under the provisions of CLARA, 1970, since both the management No. 1 and No. 2 are registered under the provisions of CLARA, 1970, having valid license to engage contract labourers. The status of the present workmen are the contract labourers under their respective contractors. He further submitted that the names of the present workmen found mentioned in Exts. 3, 9, 11, 12, 13 and 14 and Ext.16 are fabricated documents and hence the same are not reliable. He further submitted that Ext.18 has been issued by W.W.1 in his personal capacity as admitted by him during cross-examination, hence the same has no bearing on merit of this case. He further submitted that W.W.1, was the employee of the management No. 1 and due his involvement of irregular activities in the company, FIR was lodged against him in the year 2016 and he was an absconder since then. He further submitted that said W.W.1 was called for his explanation due to his unauthorised absent from duty as evident from Ext.H. He submitted that in order to take vengeance of his personal score, W.W.11 has deposed against the management No.1. He submitted that the said W.W.11 is an interested witness and reliance cannot be placed on the testimony of such witness. He further submitted that the management No 2 has clearly stated that the present workmen are the contract labourers under it for certain period till the 31st March 2017 and due to non-renewal of its terms of contract, it disengaged the present workmen with their full and final settlement of all the dues. Thus he submitted that the claim of the workmen are not maintainable under the reference and may be rejected in the interest of justice.

8. Learned counsel for the management No. 2, Mr. G.S. Samantray has submitted that as per the license issued by the appropriate authority vide Ext.P, it engaged the present workmen into the assigned works in the establishment of management No.1 from the 26th September 2016 to 31st March 2017 as evident from Ext.Q. Since the contract has not been renewed, it disengaged the present workmen from the 31st March 2017 after giving all the dues. He further submitted that the present workmen have no claim against the management No. 2 as found from the statement of claim and from the evidences of witnesses of the workmen. He submitted that in order to harass the management No. 2, the present workmen has made it a party to this proceeding unnecessarily. Hence, he submitted to reject the reference against the management No.2 in the interest of justice.

FINDINGS

9. The present reference is the outcome of the industrial disputes raised by one Bhabani Charan Satpathy in the representative character on behalf of 11 other workmen, named in the cause title of the body of this award, working under the management, demanding their regularisation. They averred that they were engaged by the 1st party management No. 1 directly for working in the its establishment at Doraguda in the district of Rayagada, Odisha and they were working in the company in different parts throughout the year under the control and supervision of the officials of the company, in different jobs of clerical nature like stores, purchase, weigh bridge etc. Under the materials Deptt. of management No.1, since 2009 till their disengagement on the 31st March 2017. Therefore, they are the workers, working in a perennial nature of work and hence entitled to be absorbed into the regular roll of the company. They further averred that they were paid their salary through different paying agencies like that of management No.2, but they basically under the control and supervision of management No.1. The contractors are only name sake for the purpose of only to pay their salaries. They further contended that the contractors were name sake and the contract if any, is *bogus and sham*, only to deprive the legitimate claim of the present workmen. The managements averred that they were working in the company not directly, but through their contractors and hence they are not the employees of the company and they are the labourers of

their respective contractors. It was further averred that the present persons (workmen) so worked not throughout the year but only for a particular period as per the terms of the contract executed between the labour contractors and management No. 1 and hence, none of them completed 240 working days in a year and hence they are not 'workmen' as per the provision of S. 2(s) of the I.D. Act, 1947. The management No.1 further contended that they are receiving their wages from their respective contractors and there is no relationship of servant-master or employees-employer existed between them. Management No. 2 has submitted that it has executed the contract vide Ext. Q with management No.1 for carrying out the work as per the terms of the said contract and accordingly, it employed the present workmen in the given work. It further submitted that when the tenure of contract was completed and no renewal was made, it disengaged them with all their dues w.e.f. the 31st March 2017.

10. In this backdrop of averments, first I have to advert to discuss the legality and maintainability of reference made to this Court by the Appropriate Govt. as contended by the parties. Before going to discuss the factual aspects, give a cursory look at the law settled on the point of contract labour system and its implication in the industrial relationship in the perspective of the present case.

In Hussainbhai, Calicut. (*supra*) the Hon'ble Apex Court in Para. 5&6 has held as under;

"The true test may, with brevity, be indicated once again. Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship *ex contractu* is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor. Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like, may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43 and 43-A of the Constitution. The Court must be astute to avoid mischief and achieve the purpose of the law and not be misled by the maya of legal appearances.

If the livelihood of the workmen substantially depends on labour rendered to produce goods and services for the benefits and satisfaction of an enterprise, the absence of direct relationship or the presence of dubious intermediaries or the make-believe trappings of detachment from the management cannot snap the real-life bond. The story may vary but the inference defies ingenuity. The liability cannot be shaken off."

In *sankar Mukharjee&Ors. Vs. Union of india (UOI) &Ors.* AIR 1973 (SC) 2650, the Hon'ble Apex Court in Para. 6 has held as under;

"It is surprising that more than forty years after the independence the practice of employing labour through contractors by big companies including public sector companies is still being accepted as a normal feature of labour-employment. There is no security of service to the workmen and their wages are far below than that of the regular workmen of the company. This Court in *Standard-Vaccum Refining Co. Of India Ltd. v. Its workmen*, [1960] 3 SCR 466 and *Catering Cleaners' of Southern Railway Vrs. Union of India &Anr.*, [1987] 1 SCC 700 has disapproved the system of contract labour holding it to be 'archaic', 'primitive' and of 'baneful nature'. The system, which is

nothing but an improved version of bonded-labour, is sought to be abolished by the Act. The Act is an important piece of social legislation for the welfare of labourers and has to be liberally construed.”

In *H.S.E.B Vrs. Suresh (supra)* the Hon’ble Apex Court in Para. 21 has held as under;

“It has to be kept in view that this is not a case in which it is found that there was any genuine contract labour system prevailing with the Board. If it was a genuine contract system, then obviously, it had to be abolished as per Section 10 of the Contract Labour Regulation and Abolition Act after following the procedure laid down therein. However, on the facts of the present case, it was found by the Labour Court and as confirmed by the High Court that the so called contractor Kashmir Singh was a mere name lender and had procured labour for the Board from the open market. He was almost a broker or an agent of the Board for that purpose. The Labour Court also noted that the management witness Shri A.K. Chaudhary also could not tell whether Shri Kahsmir Singh was a licensed contractor or not. That workmen had made a statement that Shri Kahsmir Singh was not a licensed contractor. Under these circumstances, It has to be held that factually there was no genuine contract system prevailing at the relevant time wherein the Board could have acted as only the principal employer and Kashmir Singh as a licensed contractor employing labour on his own account. It is also pertinent to note that nothing was brought on record to indicate that even the Board at the relevant time, was registered as principal employer under the Contract Labour Regulation and Abolition Act. Once the Board was not a principal employer and the so called contractor Kashmir Singh was not a licensed contractor under the Act, the inevitable conclusion that had to be reached was to the effect that the so called contract system was a mere camouflage, smoke and a screen and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the Board, on the one hand, and the employees, on the other, could be clearly visualised.”

In *Bhilwara Dughd Sahakari S. Ltd. Vs. Vinod Kumar Sharma (dead) by LRs & Ors.* AIR (2011) SC. 3546, the Hon’ble Apex Court in Paras. 4&5 has held as under;

“In order to avoid their liability under various labour statutes employers are very often resorting to subterfuge by trying to show that their employees are, in fact, the employees of a contractor. It is high time that this subterfuge must come to an end. Labour statutes were meant to protect the employees/workmen because it was “realised that the employers and the employees are not on an equal bargaining position. Hence, protection of employees was required so that they may not be exploited.

However, this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen of a contractor, or that they are merely daily wage or short term or casual employees when in fact they are doing the work of regular employees.”

In *FCI, Haryana Region Vrs. The Presiding Officer, Central Govt. Ind. Tribunal and Anr.* (1987) 2 SLR 678, the Hon’ble Punjab & Haryana High Court in Para. 11 & 12 has held as under;

“11, The Corporation had feigned total ignorance about the fact as to which person had been employed by the contractor. It has also feigned total ignorance of the fact as to whether contractors engaged by it had possessed the license envisaged by Section 12 of the Contract Labour Act. Such ignorance in our view is unacceptable in the light of the provisions of Section 29 of the Contract Labour Act. The Corporation had by feigning ignorance tried to suppress from the Tribunal facts which must be unfavorable to it.

Every worker, in our view, who works for a principal employer to whom the provisions of Contract Labour Act are attracted, is to be treated as the worker of the principal employer unless two conditions are satisfied;

- (i) That the establishment had secured a certificate of registration for the relevant period; and
- (ii) It had employed contract labour through a licensed contractor.

12. If neither of the conditions is missing then the contract labour employed through the contractor shall be treated to be the “worker” of the employer.”

In *The General Manager (P&A), Hindustan Petroleum Corporation Ltd. Vs. The General Secretary, General Employee Association, List of Workmen (1-16) and Shri A. A. Lad*, Presiding Officer. (CGIT) No.2 (2010) 3 AIR Bom R 584, the Hon'ble Bombay High Court in Paras. 58 to 62 has held as under;

“58. The evidence also shows that when these employees started working with the petitioner, the contractors did not have the necessary licenses under the Act and the Licenses came to be applied for or obtained by the contractors much later on. In *Secretary, H.S.E.B. Vs. Suresh and Others etc.*, it is observed that once the so called contractor was not a licensed contractor under the Act, the inevitable conclusion that had to be reached was to the effect that so called contract system was a mere camouflage, smoke screen and disguised in almost a transparent veil which could easily be pierced and, the real contractual relationship between the principal employer, on the one hand, the employees, on the other, could be clearly visualized. In the present case, this is one added factor which shows that the contract is *sham and bogus* as in the present case, the evidence on record shows that none of the contractors had a license at the relevant time.

59. In *Steel Authority of India Ltd (Supra)*, which is a decision by the Constitution Bench of the Supreme Court, it has been held that on issuance of prohibition under notification under Section 10(1) of the C.L.R.A. Act which, prohibits employment of contract labour. If the contract is found to be not genuine but mere a camouflage, so called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the establishment concerned and if necessary by relaxing the condition.

60. It is not the case of the petitioner that, they are not concerned at all with the employees involved in the reference. The stand of the petitioner is that, they are contract workers and since they are not on the establishment of the petitioner, they cannot be its ‘workmen’. However, the evidence on record shows to the contrary.

61. Mr. Cama also placed reliance on Para. 22 of the decision in the case of *Indian Petrochemicals Corpn. Ltd. and Another Vs. Shramik Sena and Others*. However, this decision has been considered in the case of *Hindalco Industries Ltd. In Hindalco Industries Ltd*, the Supreme Court has also considered the fact that the workers who were in employment for a long period of time due to the order made by the Industrial Court and that the continuous employment of the workmen was not voluntary. It was observed that, as (a) the workmen have been employed for long years and despite a change of contractors the workers continued to be employed in the canteen, (b) evidence on record established the ultimate control of management on the canteen employees. In such case, the Court would be entitled to pierce the veil and arrive at a finding that the Justification relating to appointment of a contractor is sham or nominal and in effect and substance there exists a direct relationship of employer and employee between the principal and the workmen. In the present case also, both these aspects are found very much present. The material on record clearly

shows that the activities of the workmen are ultimately controlled by the Company. Thus, considering all the mentioned factors cumulatively, it can safely be said that the Respondents - Workmen are in fact the workmen of the Petitioners - Management. In these circumstances, the Tribunal was perfectly right in arriving at the conclusion that the contract is nothing but a paper agreement and granting relief.

62. The Tribunal has carefully considered the evidence and material on record. The award is based on the evidence and the material on record and hence, it does not call for any interference. Writ Petition is dismissed. No order as to costs."

11. The contention of the management No.1 is that the present Reference made by the Appropriate Govt. is bad in law and not maintainable in respect of management No.1 on two grounds, viz. first there no industrial disputes exists in between management No.1 and the present workmen as there exists no employer-employee relationship and the second is that the dispute exclusively comes under the provisions of CLARA, 1970. It was submitted that the management No.1 has duly registered u/s.7 of the CLARA, 1970 and having license to engage labour contractors for certain temporary nature of works. So also the management No. 2 is licensed contractor to provide manpower to the establishment of management No.1. Since the present workmen are the contract labourers and engaged only for specific period, on the termination of the said period, they were disengaged, there exists no industrial dispute between parties, especially in respect of management No.1, so as to come (under the I.D. Act, 1947. It was contended that matter at best comes under the purview of CLARA, 1970. But the fact remains that this reference was made on the direction of the Hon'ble Court vide Order dtd. the 9th February 2018 in W.P.(c) No. 1039/2018 vide Ext.31. The management No.1 was a party to the said writ application before the Hon'ble Court. Since it was a party to the said proceeding, it must raise its objection of its maintainability before the higher forum. But it remained' silent throughout and on the stage of argument raising such issue has force at all. Since the order of the Hon'ble Court has not been challenged, it got its finality. Further law is well settled (Judgments of the Hon'ble Apex Court in SAIL, *supra*) that when the question of sham or camouflage raised in respect of a contract, the industrial adjudicator has authority to test its validity and the Appropriate Govt. has jurisdiction to refer the dispute to any industrial adjudicator for its answer. Here in this case the present workmen has challenged the contract between the management No1 and management No. 2 vide Ext.Q on the grounds of sham and camouflage. Therefore, the reference as made by the Appropriate Govt. legal and maintainable before this Court.

12. The next contention of the management No.1 is that the person Bhabani Charan Satpathy, who signed the statement of and filed the case has no authority to file the present claim on behalf of other persons named in the statement of claim. But on perusal of case record, it is found that all the workmen named above, have duly authorized said Bhabani Charan Satpathy to file the present claim on behalf of others. So the contention of the Management No.1 that said B.C. Satpathy has no authority to file the statement of claim on behalf of other workmen has no force at all. The contention raised by the management No. 2 that the case is not maintainable being barred by law of limitation, in view of the settled principle of law that the law of limitation is not applicable in respect of an industrial dispute referred by the Appropriate Govt., the same is rejected.

13. Next come to the crux of the issue i.e, the determination of the nature of the contract between the management No.1 and No. 2 as refereed by the Appropriate Govt. It is the contention of the workmen that the so called contract between the management No.1 and the contractor management No. 2, alleged to be executed, is said to be *sham and bogus* and is Camouflage documents, only to

deprive the legitimate rights of the present workmen. The contention of the management No.1 is that it has registered under Section 7 of the CLARA, 1970 and permitted to engage contractors for supply of manpower for carrying out some temporary nature of work. It has filed the registration certificate issued by the Competent Authority as per CLARA, 1970 in its favour marked as Exts. L to Exts. N series. On perusal of these exhibits, it is found that the management No.1 has registered itself for deployment of different contractors to carry out different nature of work as specified in the Form of Registration marked Ext. L to Ext. N series, which amended Form of Registration of the main Form Registration issued to it in the year 1997 bearing No. 16/1997. But the management No.1 has not submitted the said main initial Registration bearing No.16/1997, in order to verify as to what purpose the said form of registration was issued. Why this document was withheld by Management no.1 has best known to it. No clarification was given as to why it withheld such important document, which is in its possession. The management No. 2 has stated that it has its own registration and license issued by the Competent Authority under Section 12 of the CLARA, 1970. It has produced the said certificate of registration and license marked as Ext. P. On perusal of Ext.P, it is found that the same has been issued in favour of management No. 2 by District Labour Officer (DLO), Rayagada. It was issued on the 30th October 2014 but the same is given for validity upto the 27th January 2014. How this was happened. When the same was issued on the 30th October 2014, the period of validity has been shown to be till 27-1-2014 retrospectively. Further it is found that the same was renewed from time to time till the 27th January 2019. The said license was issued for the work of earthwork, civil construction, excavation work under Chief Executive Officer, UAIL. Both the managements have claimed that basing on the said documents, contract/work orders were issued. The said work order is marked as Ext.Q. On perusal of Ext.Q, it is found that the same was issued in favour of management No.2 on the 26th September 2016 for supply of manpower for carrying out the works like to undertake supervision of materials at Stores dept., to undertake purchase activities, to undertake logistics activities and to undertake operation of Weigh Bridge. On comparison of Ext.P and Ext.Q, for which the same were issued in favour of management No. 2, there is no coherence in between the two. During argument learned counsel for management No.1 has drawn the attention of the contents found mentioned in the manuscript form in Ext.P just below the line 'The license shall remain in force till the 27th January 2024' and submitted that the work order issued vide Ext.Q is comes under the purview of operations, maintenance, handling and miscellaneous civil jobs. If the submissions of the learned counsel for the Management no.1 was accepted, then the said work is only valid till the 27th January 2024. But Ext.Q was issued on the 26th September 2016 and is valid for seven months as found mentioned in the terms and conditions of Ext.Q. The outcome is that there is no correlation between Ext.P and Ext.Q for the purpose the same were issued. The managements have failed to establish the facts as averred by them. However, there are further renewal made on different dates as found in Ext.P. But there is no mention for what purpose the said renewals were made and it cannot be said that the purpose for which Ext.P was issued, Ext.Q was executed between the managements. Further the managements have failed to produce the 'annexures' mentioned in Ext.P and Ext.Q. Why they suppressed the said part of the documents. Hence this court has no hesitation to draw an adverse inference against both the managements for suppression of material facts, which are under their possession and accordingly drawn the same. Hence on perusal of both Ext.P and Ext.Q, this Court come to the conclusion that Ext.Q was not issued in compliance of Ext.P and the same cannot be treated to be issued in compliance with the provisions of CLARA, 1970. Now comes to the documents of registration issued in favour of management No.1 marked Exts. L to N series. On perusal of these documents, it is nowhere found that the nature of work mentioned in Ext.Q, is permitted to be

carried out by the management No.2 during the period mentioned in Ext.Q. So it appears that the documents marked Exts. L to Ext. Q has no correlation for the present controversy in hand and hence not reliable. Thus this Court come to the conclusion that the so called contract/work order is a mere paper work and sham documents only to camouflage the rights of the present workmen. In this context reliance can be placed on the decision of the Hon'ble Apex Court in the Case of Steel Authority of India Ltd. Vrs. National Water Front Workers Union & Ors AIR 2001 SC 3527, where it was held that;

“An analysis of the cases, discussed above, shows that they fall in three classes; (i) where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited either because the Industrial adjudicator/Court ordered abolition of contract labour or because the appropriate Government issued notification under Section 10(1) of the CLRA Act, no automatic absorption of the contract labour working in the establishment was ordered; (ii) where the contract was found to be sham and nominal rather a camouflage in which case the contract labour working in the establishment of the principal employer was held, in fact and in reality, the employees of the principal employer himself. Indeed, such cases do not relate to abolition of contract labour but present instances wherein the Court pierced the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited; (iii) where in discharge of a statutory obligation of maintaining canteen in an establishment the principal employer availed the services of a contractor and the Courts have held that the contract labour would indeed be the employees of the principal employer.

In a three-Judge Bench decision of this Court in Hussainbhai's case (*supra*), the petitioner who was manufacturing ropes entrusted the work to the contractors who engaged their own workers. When, after some time, the workers were not engaged, they raised an industrial dispute that they were denied employment. On reference of that dispute by the State Government, they succeeded in obtaining an award against the petitioner who unsuccessfully challenged the same in the High Court and then in the Supreme Court. On examining various factors and applying the effective control test, this court held that though there was no direct relationship between the petitioner and the respondent yet on lifting the veil and looking at the conspectus of factors governing employment, the naked truth, though draped in different perfect paper arrangement, was that the real employer was the management not the immediate contractor. Speaking for the Court, Justice Krishna Iyer observed thus:- Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43, and 43-A of the Constitution. The Court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances..... Of course, if there is total dissociation in fact between the disowning management and the aggrieved workmen, the employment is, in substance and in real life terms, by another. The managements adventitious connections cannot ripen into real employment. This case falls in class (ii) mentioned above.

It was further held that;

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of

various beneficial legislation so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularise the services of the contract labour in the concerned establishment subject to the conditions as may be specified by it for that purpose in the light of Para. 6 hereunder.

The Hon'ble Court further discuss the ratio decided in the case of Basti Sugar Mills case (*supra*) in the following terms;

The decision of the Constitution Bench of this Court in Basti Sugar Mills case (*supra*) was given in the context of reference of an industrial dispute under the Uttar Pradesh Industrial Disputes Act, 1947. The appellant-Sugar Mills entrusted the work of removal of press mug to a contractor who engaged the respondents therein (contract labour) in connection with that work. The services of the respondents were terminated by the contractor and they claimed that they should be re-instated in the service of the appellant. The Constitution Bench held, The words of the definition of workmen in Section 2(z) to mean any person (including an apprentice) employed in any industry to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied are by themselves sufficiently wide to bring in persons doing work in an industry whether the employment was by the management or by the contractor of the management. Unless however the definition of the word employer included the management of the industry even when the employment was by the contractor the workmen employed by the contractor could not get the benefit of the Act since a dispute between them and the management would not be an industrial dispute between employer and workmen. It was with a view to remove this difficulty in the way of workmen employed by contractors that the definition of employer has been extended by sub-clause (iv) of Section 2(i). The position thus is : (a) that the respondents are workmen within the meaning of Section 2(z), being persons employed in the industry to do manual work for reward, and (b) they were employed by a contractor with whom the appellant company had contracted in the course of conducting the industry for the execution by the said contractor of the work of removal of press mud which is ordinarily a part of the industry. It follows therefore from Section 2(z) read with sub-clause (iv) of Section 2(i) of the Act that they are workmen of the appellant company and the appellant company is their employer."

The Hon'ble Apex Court after carefully gone through and having an elaborate discussion, has declined to interfere in the decision taken by the Hon'ble High Court of Patna in C.A. No.6023/2001@SLP(C)No.19391/99. The said case is identical to the facts of this case. It was held as under;

"C.A. No. 6023/2001@SLP(C) No. 19391/99 This appeal arises from the judgment and order dated the 19th August 1999 of the High Court of Patna, Ranchi Bench, Ranchi, in L. P. A. No. 214/99 (R). The Division Bench declined to interfere with the order of the learned Single Judge dismissing the writ petition filed by the appellant. The case arose out of the award dated October 3, 1996 passed by the Central Government Industrial Tribunal No.1 directing the appellant to absorb the contract labour. The Tribunal, on appreciation of the evidence, found that the contract labourers were not regularised to deprive them from the due wages and other benefits on par with the regular employees under sham paper work by virtue of the sham transaction. It was also pointed out that the workmen in other coal washery were regularized. The claim of the appellant that the washery , was given to the purchaser was not accepted as being a sham transaction to camouflage the real facts. The learned Single Judge on consideration of the entire material confirmed the award and the Division Bench declined to interfere in the LPA. We find no reason to interfere with the order under challenge. The appeal is, therefore, dismissed with costs."

Reliance can also be placed on the decision of the Hon'ble Apex Court in the Case of Bhilwara Dughd Sahakari S. Ltd. Vrs. Vinod Kumar Sharma (*supra*) and on the decision of the Hon'ble Punjab & Haryana High Court in the Case of FCI, Haryana Region Vrs. The Presiding Officer, Central Govt. Ind. Tribunal and Anr. (*supra*).

14. The main thrust of the management No. 1 is that the present workmen are the contract labourers, who were worked under different contractors and lastly under management No.2. As discussed above, the contract between the management No.1 & 2 is held to be *sham and bogus*, resulting that the relationship of employer and workmen has established between the management No.1 as principal employer and the present workmen. Admittedly, the workmen were working under different contractors since 2009 and so on. This fact found mentioned in Para. 3 of the show cause filed by the management No.2. On perusal of conciliation failure report submitted by the ALO, Rayagada along with the reference submitted by the appropriate Govt. and the copy of the said report marked as Ext.27, it found that the Management No.2 has engaged the present workmen, who were working under the contractor MMG Associates. It also took stand that the present workmen were reporting to the UAIL authorities, who were certifying the Muster Roll of these workmen and it was only his pay master. The said fact has not rebutted by the managements by submitting contradictory evidence. The present workmen have claimed that they were directly appointed by the management No. 1, but no such document has filed to support the said claim. However, the evidences of W.W.11 is aptly relevant in this regard. Learned counsel for the management No.1 has submitted that W.W.11 is an interested witness and for that reason his testimony cannot be reliable. He submitted that the said witness was appointed by management No.1 as Manager (Materials) and due to his mischievous activities and unauthorized absent from duties he was called for explanation vide Ext.H. He also submitted that FIR was lodged against the said witness. Merely an explanation was called for and FIR was lodged against a person, is a ground, not to believe his testimony, if his testimony otherwise relevant and reliable. So the submission that the testimony of W.W.11 is not reliable, cannot be accepted. Fact admitted that said W.W.11 was the Manager, Materials Deptt. of the management No. 1 as evident from Exts. A to H. During cross-examination, said witness has stated that after the oral interviews of the present workmen, they were given their respective duties. He also categorically identified the present workmen. Nothing contrary was inferred from the evidence of W. W.11 during cross-examination. What he deposed before the Court, is found support from Exts. 3, 6, 13, 14 etc. Moreover, Ext. 16 discloses that one of the present workmen namely Dilip Achary was interviewed and posted in place of one temporary employee namely Sunil Pattanaik, who had brought to permanent roll of UAIL, who was working under the name sake contractor Jai Jagannath Transport. This evidence has not been discarded by the management No.1 by adducing any contrary evidence. Ext.16 proves the effective control over the work and service conditions of the present workmen by the management No. 1. The veracity of the documents of work/purchase orders marked as Exts.1 to Ext.15, the existence of said documents not been denied by the management no.1. If the contractors have the liberty to engage its own labourers, why and how the names of the present workmen are found mentioned on the annexures of work/purchase orders marked Exts. 3, 9, 10 and 12. Further Ext.18 discloses that W. W.11 has recommended the names of the present workmen for their regularisation and sent it for approval to the CEO & MD, UAIL. During cross-examination, said W.W.11 has stated that he had wrote Ext.18 in his personal capacity. But said Ext. 18 was issued by W.W.11 in his official capacity as Manager, Materials, UAIL. So mere saying that he has issued it in his personal capacity, is a misconception of fact, and hence not acceptable. While answering the question of learned counsel for the management No.1, W. W.1 might have thought that the question relates to his personal capacity, means his official

capacity, since he has issued it while working under the UAIL on the 2nd July 2015. Further the identity cards issued in favour of the present workmen, marked as Ext. 25 series, though issued by the management No. 2, the security officer of management No. 1 has put his counter signature, which shows the control of entry of the workmen into the company was in the hands of the management No.1. The nature of jobs, these workmen were performed, perennial in nature as found from the documentary evidences adduced by both the parties. Even though there was change of name sake contractors, the workmen were working throughout the year, even in absence of any contractor. This fact proves from the documentary evidences like Exts.3, 4, 5, 6, 7, 9, 10, 13 and Ext. P & Q. These documents disclose the date of retrospective effect of the contract, even during the said period the workmen were in their continuous work. The above documents show that the present workmen were continuously worked for more than 240 days in a calendar year, some of them have completed 5 to 7 years of continuous service. Further the witnesses of the workmen have deposed during evidence that no contractor have ever visited their place of work to supervise their work in UAIL. The management has not produced any contrary evidence to discard the said claim of the workmen. Further the management no.1 has not established the fact that the contractors have requisite know-how to deal with the works performed by the present workmen, when on perusal of the case record, it is found that the management no.1 has failed to establish the above requirements, the irresistible conclusion that the contractors, so employed by the management are nothing but the name sake contractors and the paper works, like work orders, are nothing but paper arrangements. The managements have failed to clarify the said aspect. It appears that in order to put these workmen, who are working since 2009, under the contractors, it has put the retrospective clause in the work orders vide Exts.1 to 14. This act of the management appears to be illegal and it has tried to deprive the legitimate claim of the workmen working since 2009, who were presumed to be engaged by the principal employer, the management No.1 directly.

15. So in view of the above analysis and relying on the principles laid down by the Hon'ble Apex Court and different High Courts, in the cases mentioned above, this court come to the conclusion that the work orders or contracts, if any, are *sham and bogus*, a camouflage document, only to deprive the legitimate claim of the present workmen. The so called contractors are nothing but the agents of the management No.1 and only name sake, become an instrumentality in the hands of the management No.1. There exists the relationship of master and servant or employer and employee between the management No.1 and the 2nd party workmen.

In this aspect reliance can be placed on the decision of our own Hon'ble High Court in the case of Paradip Port Trust case (*supra*). The Hon'ble Court in Para.11 has held as under;

"11. So far as the effective control is concerned. There are three aspects which are not in dispute. First aspect is entry of the workers inside the prohibited area of the Paradip Port Trust. Unless gate passes are issued, no one can enter inside the prohibited area and therefore the management of Paradip Port Trust has control over entry of workers inside the prohibited area. There is evidence on record to show that all these 40 workers were being issued gate passes to enter inside the prohibited area and only on payment of some fees. Therefore, the management of the Paradip Port Trust has effective control with regard to entry into the prohibited area and there is no dispute that this control was exercised on all the 40 workers. The second aspect of the case is the nature of work executed by the said workers. There is no dispute that these workers have been engaged for loading and unloading of materials inside the Central Store and there is no dispute that stacking of materials inside the Central Store is done by them. So far as loading and unloading are concerned, Shri Padhi, learned senior counsel appearing for the management may be correct in

saying that the management may not have control over the same, but so far as stacking of materials inside the Central Store is concerned, the management has some control over the workers as; the workers cannot stack materials where ever they want. The third aspect is that admittedly the workers were paid wages on certain occasions by the management whenever they were engaged by the management and they have been doing so far past several years.

On consideration of all these materials placed before the Court, I am of the view that not only the management has effective control over the entry of workers into the prohibited area but also has effective control on the movement of workers inside the Central Store. There being, no dispute that the workers are working in the Central Store for past several years i.e. some workers from the year 1975 and some from 1994 and the Central Store is used for storage of materials belonging to the Paradip Port Trust, the work is perennial in nature. Now applying the principles laid down by the Apex Court and the Gujarat High Court as quoted above, it is clear that management of Paradip Port Trust has indulged itself in unfair labour practice by engaging 40 workers on casual basis for years without making them permanent.”

16. The contention of the learned counsel of the workmen that all the present workmen were engaged in the industry throughout the year and worked continuously since last 5 to 7 years without any break. Hence he submitted that the present workmen were working in the industry continuously throughout the year as provided under section 25B of I.D. Act, 1947. On perusal of the evidence of the workmen, they categorically stated that they were worked for year to year, even though their name sake contractors/paying agencies were changed. This fact is also found support from the evidence marked Exts. 1 to 14, the work/purchase orders. It is further found from the evidence of contractor management No. 2, who categorically averred that it engaged the present workmen, who were working under the previous contractor Mytri Infra. It also admitted this fact before the ALO, Rayagda-*cum*-Conciliation Officer, who submitted his report vide Ext. 27. Learned Counsel of the workmen further contended that the attendance of the present workmen were entered by the management No.1 on the Attendance Registers, maintained by it and when the workmen given evidence by entering into the witness box, the management No.1 has ought to produce the said registers and other documents before the Court, which are under its possession. Since the managements had failed to produce the said documents under its possession, an adverse inference is to be drawn against it. In this aspect reliance can be placed on the decision of Director, Fisheries Terminal Division *Vrs. Bhikubhai Meghajibhai Chavda* (2010) AIR (SCW) 542. The Hon'ble Apex Court in Director, Fisheries Terminal Division (*supra*) while referring on the decision of R. M. Yellati *Vs. The Assistant Executive Engineer* AIR 2006 SC 355 in Para.14&15 held as under;

“The Hon’ ble Apex Court in the Case of R. M. Yellati (*Supra*) held Thus;

14. Section 25B of the Act defines “continuous service”. In terms of sub-section (2) of Section 25B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. The respondent claims he was employed in the year 1985 as a watchman and his services were retrenched in the year 1991 and during the period between 1985 to 1991, he had worked for a period of more than 240 days. The burden of proof is on the respondent to show that he had worked for 240 days in preceding twelve months prior to his alleged retrenchment. The law on this issue appears to be now well settled. This Court in the Case of R.M. Yellatty *Vs. Assistant Executive Engineer* [(2006) 1 SCC 106], has observed:

However, applying general principles and on reading the aforesaid Judgments, we find that this Court, has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping up in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily-waged earners, there will be no letter of appointment of termination. There will also be no receipt of proof of payment. Thus in most cases, the workman (the claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment of termination, If any, the wage register, the attendance register, etc. Drawing of adverse inference ultimately would depend thereafter on the facts of each case.”

15. Applying the principles laid down in the above case by this Court, the evidence produced by the appellants has not been consistent. The appellants claim that the respondent did not work for 240 days. The respondent was a workman hired on a daily wage basis. So it is obvious as this Court pointed out in the above case that he would have difficulty in having access to all the official documents, muster rolls etc. in connection with his service. He has come forward and deposed, so in our opinion the burden of proof shifts to the employer/appellants to prove that he did not complete 240 days of service in the requisite period to constitute continuous service. It is the contention of the appellant that the services of the respondent were terminated in 1988. The witness produced by the appellant stated that the respondent stopped coming to work from February, 1988. The documentary evidence produced by the appellant is contradictory to this fact as it shows that the respondent was working during February, 1989 also. It has also been observed by the High Court that the muster roll for 1986-87 was not completely produced. The appellants have inexplicably failed to produce the complete records and muster rolls from 1985 to 1991, inspite of the direction issued by the labour court to produce the same. In fact there has been practically no challenge to the deposition of the respondent during cross-examination. In this regard, it would be pertinent to mention the observation of three Judge Bench of this Court in the Case of Municipal Corporation Faridabad Vs. SiriNiwas [(2004) 8 SCC 195], where it is observed:

A Court of Law even in a case where provisions of the Indian Evidence Act. apply, may presume or may not presume that if a party despite possession of the best evidence had not produced the same, it would have gone against this contentions. The matter, however, would be different where despite direction by a Court the evidence is withheld.”

Here in this case the workmen although pleaded that their attendance registers were maintained by management No.1 and under the possession of the management No.1, but the management No. 1 has not produced the same during hearing, which law imposes a duty to produce the same. So an adverse inference has been drawn against the management No 1, as contended by the workmen.

17. The further contention of the workmen is that the management No. 1 has exploited by petting them under the name sake contractors and deprived all the benefits of a regular employee of the management No.1. The learned counsel for the workmen has submitted that although the name sake contractors were changed from time to time, but the workmen are the same and they are working since long for more than 5 years but they are denied their legitimate claims. He further submitted that the present workmen are deprived of their equal wages and other benefits, as that of a regular employee is getting, even though they are doing the same and equal jobs of the management No.1 as that of a regular employee. By doing so, the management has resorted to Unfair Labour Practice as enumerated in item No.10 of the Schedule- V of the Industrial Disputes

Act, 1947. Before going to discuss the factual aspects of the case, the observations made by the Hon'ble Apex Court in the Case of Sankar Mukharjee & Ors. Vs. Union of India (UOI) & Ors. AIR 1973 (SC) 2650 regarding practice of employing the contract labourers in establishments, where the Hon'ble Court has held as under;

"It is surprising that more than forty years after the independence the practice of employing labour through contractors by big Companies including public sector companies is still being accepted as a normal feature of labour employment. There is no security of service to the workmen and their wages are far below than that of the regular workmen of the company. This Court in Standard-Vacuum Refining Co. of India. Ltd. Vrs. Its Workmen, [1960] 3 SCR 466 and Catering Cleaners of Southern Railway Vrs. Union of India & Anr., [1987] 1 SCC 700 has disapproved the system of contract labour holding it to be 'archaic', 'primitive' and of 'baneful nature'. The system, which is nothing but an improved version of bonded-labour, is sought to be abolished by the Act. The Act is an important piece of social legislation for the welfare of labourers and has to be liberally construed."

18. On perusal of case record, it is found that the present workmen are, in spite of serving the management for a pretty long period in perennial nature of jobs, having vast experience in clerical jobs in different departments of management No. 1, having requisite educational and technical qualifications, the non-regularization of the workmen and putting them under the name sake contractors, without following due procedure and law, by giving less salary ignoring their experience and long service, to that of the regular employees, appears to this Court that the management No. 1 has practicing Unfair Labour Practice as enumerated in item No-10 of the Fifth Schedule of the I.D. Act, 1947. Hence such practice has to be deprecated and the workmen are entitled to their legitimate claim. In this respect, reliance can be placed on the decision of Hon'ble Apex Court in the Case of Sanker Mukharjee (*supra*) and our own Hon'ble Court in the Case of Paradip Port Trust (*supra*).

19. In Mahanadi Coalfields Ltd. Vrs. Brajarajnar Coal Mines Workers' Union (2024) indiankanoon.org, SC, the Hon'ble Apex Court has held in Para. 22 & 23 as under;

"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."

20. Admittedly, UAIL, Rayagada is a wholly privately owned industry. It is evident that the present workmen were working there as temporary workmen but in perennial nature of jobs as evident from the evidence of M.W.1 & 2. It is also admitted fact that the present workmen are working in the establishment since 2009, as found from the evidences of the workmen examined. It is also admitted by the management No. 2 that the present workmen were working with Mytri Infra with management No.1 prior to their engagement. It is also found that the said management No. 2 still working with management No. 1 as stated by M.W.2 during his cross-examination. So there is need of workers in the establishment of management No.1. On analysis of the facts enumerated above, this Court hold that there would have no problem, if the present workmen are to be absorbed in the regular

establishment of the management No.1 considering their long years of experience, against the existing vacancies.

21. In view of the above discussions, considering the facts and circumstances of the case, relying on the principles laid down by the Hon'ble Apex Court and other Hon'ble different High Courts, this Court reached the conclusion that, the present workmen are not the labourers of the name sake contractors, the management No.1 has resorted to Unfair Labour Practices by depriving the workmen to their legitimate claims and hence this Court thought it proper to regularize the present workmen into regular establishment of the management No.1 and to provide therewith their service benefits as a regular employee of the management No.1. Thus the contract between M/s Sri Ram Constructions, Indira Nagar, 3rd Line, Near Ring Road, Rayagada-765001, Odisha (Contractor) and M/s. Utkal Alumina International Ltd., At. Doraguda, P.O. Kuchipadar, Rayagada-765 015, Odisha (Principal Employer) is hereby held to be rose/sham and camouflage one to screen the legitimate right of the present workmen.

22. Fact reveals that the above workmen have engaged since 2009 onwards and some others were engaged since 2013, the fact, has not been denied by the management. The workmen demanded their regularization from the date when they were illegally disengaged since the 31st March 2017, i.e 1st April 2017 with back wages. From the evidences of the workmen examined, it is found that they have already paid their wages for the work they have already done. As evident from the case record the workmen were not allowed to enter into the premises of the management No. 1 from the 1st April 2017, although they were willing to work. Further the claim of management No. 2 that it has settled all their full and final settlement of dues, has not been proved by filing any substantive evidence. Since the workmen are interested to work, they were unlawfully, without complying the provision of law, denied with work. This Court thought it proper after considering the facts and circumstances of the case and after delving into the entire gamut of the dispute, if the present workmen be absorbed from the date when they were denied to work. The workmen namely Shri Bhabani Charan Satapathy and 11 others, whose services were terminated w.e.f. the 1st April 2017 are entitled to be absorbed on the rolls of M/s. Utkal Alumina International Ltd. w.e.f. the 1st April 2017. Accordingly it is ordered.

AWARD

The reference be and the same, is answered on contest against both the managements. The management No.1 is directed to absorb the present workmen into its regular establishment from the date of their disengagement/termination i.e the 1st April 2017, along with 50% back wages all the consequential service benefits as that of a regular employee is getting, within two months from the date of publication of this Award by Appropriate Govt. No order as costs.

Dictated and corrected by me.

List of witness examined on behalf of 2nd Party Workmen.

- | | |
|--------|--------------------------|
| W.W. 1 | : Jyotiranjana Jena |
| W.W. 2 | : Vivek Kumar Singh |
| W.W. 3 | : Abhisekh Kumar |
| W.W. 4 | : Dilip Kumar Achary |
| W.W. 5 | : Durga Prasad Pattanaik |
| W.W. 6 | : Rajesh Kumar Panda |
| W.W. 7 | : Ramesh Chandra Pradhan |

W.W. 8 : Dilip Kumar Pradhan
 W.W. 9 : Basudev Sahoo
 W.W. 10 : Bhabani Charan Satapathy
 W.W. 11 : Ramesh Chandra Parida

List of witness Examined on behalf of 1st Party Management No.1.

M.W. 1 : Somnath Sahu

List of witness Examined on behalf of 1st Party Management No.1.

M.W. 2 : Trinath Naik

List of documents marked as Exhibits for the 2nd Party Workmen.

- Ext. 1 : Photocopy of work order of UAIL to Jagannath Refrigeration on dtd. 14-10-2009.
- Ext. 2 : Photocopy of amended work order by UAIL on 29-6-2010.
- Ext. 3 : Photocopy of amended work order on 5-4-2012.
- Ext. 4 : Photocopy of work order to Jai Jagannat Transport on 15-6-2012.
- Ext. 5 : Photocopy of work order of UAIL on 18-9-2012.
- Ext. 6 : Photocopy of work order of UAIL on 25-9-2012.
- Ext. 7 : Photocopy of work order of UAIL on 15-7-2013.
- Ext. 8 : Photocopy of purchase order of UAIL on 6-12-2013
- Ext. 9 : Photocopy of purchase order of UAIL on 6-5-2014
- Ext. 10 : Photocopy of purchase order of UAIL on 8-5-2014
- Ext. 11 : Photocopy of Purchase order of UAIL on 6-5-2014.
- Ext. 12 : Photocopy of Purchase order of UAIL on 18-8-2015.
- Ext. 13 : Photocopy of Purchase order of UAIL on 2-11-2015.
- Ext. 14 : Photocopy of Purchase order of UAIL on 20-6-2016.
- Ext. 15 : Photocopy of Table showing list of Contractors from time to time
- Ext. 16 : Photocopy of file note of GM,(Commercial), UAIL on 24-8-2013.
- Ext. 17 : Photocopy of GRN showing the 2nd Party Workman no.1 was the store keeper.
- Ext. 18 : Photocopy of recommendation of the Manager, Materials of UAIL, Shri R.C. Parida to Rajesh Jh, CEO & MD for regularisation of 16 numbers of employee, dt. 2-7-2015.
- Ext. 19 : Photocopy of recommendation of GM, Mines, Biswaranjan Padhi for the post of store in-charge Mines to Vijay S. Apra on 28-11-2015.
- Ext. 20 : Photocopy of Grievance letter of the workmen to the D.L.O., Jeypore on 1-4-2017
- Ext. 21 : Photocopy of Grievance letter to the Collector, Rayagada on 13-3-2017
- Ext. 22 : Photocopy of Grievance letter to Asst. Labour Commissioner, Rayagada on 9-4-2017
- Ext. 23 : Photocopy of Grievance letter of the workmen to Chairman, Human Rights Commission on 9-4-2017.
- Ext. 24 : Photocopy of Grievance letter to MD, Aditya Birla Group on 9-4-2017.
- Ext. 25 : Photocopy of Identity Card Shri R.C. Pradhan.
- Ext. 25/1 : Photocopy of Identity Card Shri Basudev Sahoo.
- Ext. 25/2 : Photocopy of Identity Card Shri Dillip Pradhan.
- Ext. 25/3 : Photocopy of Identity Card Shri Durga P. Patnaik.
- Ext. 25/4 : Photocopy of Identity Card Shri Durga Patnaik.
- Ext. 25/5 : Photocopy of Identity Card Shri Abhishek kumar.
- Ext. 25/6 : Photocopy of Identity Card Shri R.N. Swain.
- Ext. 25/7 : Photocopy of Identity Card Shri Dilip Achary.
- Ext. 25/8 : Photocopy of Identity Card Shri B.C. Sathpathy.
- Ext. 25/9 : Photocopy of Identity Card Shri B.C. Sathpathy,
- Ext. 25/10 : Photocopy of Identity Card Shri Vivek K. Singh.
- Ext. 25/11 : Photocopy of Identity Card Shri Jyoti Ranjan Jena.

- Ext. 26 : Photocopy of Letter of management No.2 to the workmen for full and final settlement on 31-3-2017 posted on 16-5-2017.
- Ext. 27 : Photocopy of Conciliation failure report and Supplementary report on 22-12-2017 of the Asst. Labour Commissioner vide Letter No. 4179(3), Dt. 22-12-2017.
- Ext. 28 : Photocopy of the statement of Shri G. Prakash, Manager of management No.2 during Conciliation proceeding on 23-5-2017.
- Ext. 29 : Photocopy statement of workmen during Conciliation proceeding dt.23-5-2016.
- Ext. 30 : Photocopy of order dtd.12-5-2017 of the, Hon'ble Court in W.P.(c) No. 8543/2017.
- Ext. 31 : Photocopy of order dtd. 9-2-2018 of the Hon'ble High Court in W.P.(c) No1039/2018.
- Ext. 32 : Photocopy of Form-D issued by the A.L.O., Rayagada in the Conciliation proceeding.
- Ext. 33 : Photocopy of notice dtd. 22-8-2017 issued by the A.L.O., Rayagada, issuing notice to parties in Conciliation Proceeding.
- Ext. 34 : Photocopy of Supplementary Report dtd. 22-12-2017 submitted by ALO, Rayagada.
- Ext. 35P : Photocopy of reference made by the Govt. dt.3-5-2018.
- Ext. 36 : Photocopy of my experience Certificate issued 9-10-2023 with objection by UAIL on 2-9-2015.
- Ext. 37 : Photocopy of letter issued by the Vice-President of UAIL Shri M. Ramesh Kumar requesting to workman for donation of blood to his mail Id, given by UAIL as an employee along with the list of employees of UAIL and others for blood donation.
- Ext. 38 : Photocopy of experience Certificate of Basudev Sahoo
- Ext. 39 : Photocopy of experience Certificate of B.C. Satapathy
- Ext. 40 : Photocopy of experience Certificate of R.N. Swain
- Ext. 41 : Photocopy of experience Certificate of R.C. Pradhan
- Ext. 42 : Photocopy of experience Certificate of R.C. Panda
- Ext. 43 : Photocopy of experience Certificate of D.K. Achary
- Ext. 44 : Photocopy of experience Certificate of D.P. Patnaik
- Ext. 45 : Photocopy of experience Certificate of G. Ananta Krishna
- Ext. 46 : Photocopy of experience Certificate of Vivek Kumar Singh
- Ext. 47 : Photocopy of experience Certificate of Jyoti Ranjan Jena
- Ext. 48 : Photocopy of experience Certificate of Abhishek Kumar
- Ext. 49 : Photocopy of work order dtd.14-10-2009 issued by M-1 in favour of Jagannath Refrigeration.
- Ext. 50 : Photocopy of work order continuance of work order dated the 14-10-2009 issued by M-1 in favour of M/s J. Refrigeration on 29-06-2010.
- Ext. 5 : Photocopy of amended work order issued on 15-6-2012 by M-1 to J. Refrigeration.
- Ext. 52- Photocopy of work order dt. 15-7-2013 issued by M-1 in favour of M/s. J. Refrigeration.
- Ext. 53 : Photocopy of Purchase order on 6-12-2013 issued by M-1 in favour of M/s. J. Refrigeration.
- Ext. 54 : Photocopy of amended purchase order dt.6-6-2014 issued M-1 in favour of M/s. MMG, Associates.
- Ext. 55 : Photocopy of purchase order dt.18-8-2015 issued by M-1 in favour of M/s MMG, Associates.
- Ext. 56 : Photocopy of amended purchase order dt.18-10-2015 issued by M-1 in favour of M/s MMG, Associates.
- Ext. 57 : Copy of original notice issued by M-2 to the workman Basudev Sahoo.
- Ext. 57/1 : Copy of original postal receipt and envelop.
- Ext. 58 : Photocopy of Form-D on dt.15-5-2017 of Conciliation Officer-cum-Asst. Labour Commissioner, Rayagada.

List of documents marked as Exhibits for the 1st Party Managements.

- Ext. A : Photocopy of application of W.W.11 to Mr. M.G Pani, Head, HR. Deptt. of UAIL on 20-1-2006.
- Ext. B : Photocopy of application for employment on 2-5-2006.
- Ext. C : Photocopy of appointment letter dt. 19-7-2006 issued by UAIL in favour of W.W No.11.
- Ext. D : Photocopy of Joining report dt.17-8-2006 of W.W. No.11
- Ext. E : Photocopy of Certificate of declaration submitted to UAIL on 19-8-2006.
- Ext. F : Photocopy of Confirmation of the post of W.W. No.11 Dt. 24-2-2007.
- Ext. G : Photocopy of qualification of W.W. No.11 Certificate.
- Ext. H : Photo -copy of Letter No.10030 dt. 28-5-2016 issued by UAIL.
- Ext. J : Authorization Certificate issued by Unit Head of UAIL in favour of M.W.1.
- Ext. K : Photocopy of I.D. Card of M.W.1 issued by UAIL
- Ext. L : Photocopy of Certificate of Registration issued by D.L.O., Rayagada vide his letter No. 16/1997 for engagement of Contract Labour.
- Ext. M : Photocopy of amended Certificate of registration U/s.7 (2) of CLARA, 1970 dtd. 30-5-2005.
- Ext. N : Photocopy of Letter No. 545, dt. 27-2-2008 issued by D.L.O., Rayagada for Amendment of Certificate of Registration under Section 7 (2) of CLARA, 1970.
- Ext. P : Photocopy of License No.496, dt.30-2-2006 of management No.2 as renewed till 2017 vide No. 4267, dt.19-12-2017.
- Ext. Q : Photocopy of Purchase Order dt.26-9-2016 issued in favour of Sri Ram Construction w.e.f. 1-9-16 to 31-3-2017.
- Ext. R : Photocopy of authorization Certificate issued by the MD, Sriram Construction Ltd.

BIDYADHAR PRUSTY
30-03-2024
Presiding Officer
Labour Court, Jeypore

BIDYADHAR PRUSTY
30-03-2024
Presiding Officer
Labour Court, Jeypore

[No. 4862–LESI-IR-ID-0003/2018-LESI.]

By order of the Governor

NITIRANJAN SEN

Additional Secretary to Government