

K. Suri Babu and anr. Vs. Nuclear Fuel Complex and ors.

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Court : Andhra Pradesh

Decided On : Oct-14-2008

Reported in : 2008(6)ALT390; (2009)IIILLJ477AP

Judge : Ghulam Mohammad and; G. Bhavani Prasad, JJ.

Acts : Industrial Employment (Standing Orders) Act, 1946 - Sections 2, 3, 5, 6, 7, 10, 12, 13, 13A, 13B and 14; Contract Act - Sections 23; Central Civil Services (Classification, Control and Appeal) Rules, 1965 - Rule 14; Central Civil Services (Conduct) Rules, 1964 - Rule 20; Industrial Employment Standing Orders - Orders 38 to 44

Appeal No. : Writ Petition Nos. 9541 and 13249 of 2008

Appellant : K. Suri Babu and anr.

Respondent : Nuclear Fuel Complex and ors.

Advocate for Def. : A. Rajashekar Reddy, Asst. Solicitor General

Advocate for Pet/Ap. : S.R. Sanku,; Kaviti Murali Krishna and; G. Ravi Mohan, Adv.

Disposition : Petition allowed

Judgement :

ORDER

G. Bhavani Prasad, J.

1. Whether the writ petitioners are governed by the Industrial Employment Standing Orders (for short 'the Standing Orders') certified under the Industrial Employment (Standing Orders) Act, 1946 (for short 'the Act') or the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for short 'the Rules'), is the common question involved in these two writ petitions, which were, hence, heard together and are being disposed of by this common order.

2. The petitioner in W.P. No. 9541 of 2008 was appointed as Helper/A on adhoc basis in an industrial temporary establishment of Nuclear Fuel Complex, Hyderabad with effect from 26-5-2001. His other terms and conditions of appointment were stated to be those already communicated to him in a letter dated 5-5-2001. He claimed to have been declared as an approved probationer with effect from 25-5-2002 and to have received a memorandum dated 23-4-2003 from the Administrative Officer calling upon him to explain why disciplinary action cannot be taken against him under the Rules for submitting a fake educational certificate to secure employment in the Nuclear Fuel Complex, Hyderabad. After the petitioner's reply dated 10-5-2003 claiming the transfer certificate produced by him to be genuine, a memorandum dated 7-7-2007 framing charges under Rule 14 of the Rules, was communicated by the Administrative Officer/ Disciplinary Authority. An inquiry authority and a presenting officer were appointed by the memorandum and the petitioner informed by a letter dated 3-9-2007 that the Rules are not applicable to him, but only the Industrial Standing Orders would apply, which was denied by the reply dated 22-10-2007. Though the petitioner reiterated his stand by a letter dated 30-10-2007, the inquiry officer proposed to hold the inquiry on 9-2-2008, on which he filed O.A. No. 101 of 2008 before the Central Administrative Tribunal, Hyderabad Bench (for short 'the Tribunal').

3. The Tribunal in its order dated 18-3-2008 referred to the appointment letter issued to the petitioner on 5-5-2001 stating that the other terms and conditions of his service including discipline will be governed by the rules as applicable to Central Government employees of his status from time to time, while the leave entitlement will be as admissible to industrial employees in departmental

undertakings. Finding no ambiguity in this regard, the Tribunal also referred to the letter from the Deputy Secretary, Department of Atomic Energy dated 10-8-1979 and the Circular of the Chief Administrative Officer, dated 12-5-2005. In the later Circular, Section 13B of the Act was referred to as excluding the Nuclear Fuel Complex, Hyderabad from the purview of the Act and it was reiterated that the Act does not apply to the personnel working in Nuclear Fuel Complex, Hyderabad, which is following always the Rules and other rules from the beginning. Accepting the unequivocal and unambiguous stand of the Department of Atomic Energy, the Tribunal dismissed the application at the stage of admission holding that the employees of the Nuclear Fuel Complex, Hyderabad are governed by the Rules.

4. The petitioner in W.P. No. 13249 of 2008 was also appointed as Helper Grade-A in the Nuclear Fuel Complex, Hyderabad in March, 1992 on the strength of a transfer certificate from Zilla Parishad High School, Uppal Kalan, Hyderabad and he was subsequently promoted as Helper-B Grade in 1998, Helper-C Grade in 2003 and Tradesman-A in 2005. He was required to produce the original transfer certificate dated 26-9-1982 for verification in January, 2007, which he could not produce due to submitting the same to the SSC Board while appearing for SSC examination. Based on the verification made by the authorities on a complaint, the Chief Administrative Officer issued a memorandum dated 27/29-8-2007 framing a charge for submitting false transfer certificate, under Rule 20 of the Central Civil Services (Conduct) Rules, 1964.

5. The petitioner filed O.A. No. 870 of 2007 before the Tribunal claiming that he is governed by the Industrial Employment Standing Orders certified by the Regional Labour Commissioner and the Central Civil Services (Conduct) Rules are not applicable to him. Any Circular or Administrative Orders cannot override the statutory Standing Orders as held by the Apex Court. On this challenge to the disciplinary action by the petitioner the official respondents contended that the order of appointment dated 6-3-1992 issued to the applicant itself clearly specified that the terms and conditions of service including discipline will be governed by the rules applicable to Central Government servants of his status. They relied on Section 13B of the Act and the clarification by the Ministry of Labour, Government of India, dated 29-7-1977 in this regard as well as the letter of Department of

Atomic Energy dated 10-8-1979. Though the decision of the Tribunal in O.A. No. 318 of 2003, dated 19-1-2004, in which a similarly placed employee was held to be not governed by the Rules, was relied on for the applicant, the Tribunal went by the order in O.A. No. 101 of 2008, dated 18-3-2008 and confirmed that the service conditions of the employees of the Nuclear Fuel Complex, Hyderabad are governed by the Rules, but not by the Act. The original application was, hence, dismissed at the stage of admission.

6. The Petitioners challenged the said orders of the Tribunal in these two writ petitions and sought for declaring the disciplinary action against them to be illegal, etc. They claimed that they are workmen within the meaning of the Act and in the light of Certified Standing Orders in respect of the Nuclear Fuel Complex, Hyderabad under the Statute, no Circulars or Administrative Orders can override them. They contended that Section 13B of the Act has no application, more so, in the absence of any notification under that provision.

7. The official respondents contested the writ petitions claiming that the Nuclear Fuel Complex, Hyderabad, a Constituent Unit of the Department of Atomic Energy, Government of India, was established in mid 1970s and it is following all rules generally applicable to all Central Government departments in respect of the conditions of service of its personnel. The Act does not apply in view of Section 13-B and in W.P. No. 13327 of 2005 and W.A. No. 2061 of 2006, the employees of Nuclear Fuel Complex, Hyderabad were treated as Government Servants and issue of charge sheet to the petitioner involved therein under the Rules was held valid. In W.P. No. 3786 of 2004 filed against O.A. No. 318 of 2003, the employee concerned agreed to cooperate with the department in conducting the inquiry under the Rules. Even the petitioners herein were attending the disciplinary proceedings and hence, the official respondents sought for dismissal of the writ petitions.

8. By virtue of the interim orders of this Court, the disciplinary proceedings against the petitioners were permitted to go on, but it was directed not to pass any final orders pending further orders in the writ petitions.

9. Sri S.R. Sanku and Sri G. Ravi Mohan, learned Counsel for the petitioners and Sri A. Rajasekhar Reddy, learned Assistant Solicitor General for the respondents extensively argued, questioning and defending the orders of the Tribunal respectively and Sri S.R. Sanku referred to certain precedents as relevant to the questions in issue.

10. The factual background leading to the disputes, is not in dispute. The Nuclear Fuel Complex, Hyderabad was established in mid 1970s as a Constituent Unit of the Department of Atomic Energy, Government of India. The Nuclear Fuel Complex, Hyderabad as the employer submitted draft Standing Orders under the Act to the Certifying Officer and the Certifying Officer/ Regional Labour Commissioner (Central), Hyderabad certified them on 27-8-1973. The Standing Orders were stated to apply to all industrial employees of the Nuclear Fuel Complex, Hyderabad, who are workmen as defined in the Act and the Orders were stated to come into force from a date to be determined in accordance with Section 7 of the Act. The Standing Orders 38 to 44 provide for misconduct, disciplinary action, penalties, procedure, appeal and review in detail. No appeal was claimed to have been preferred under Section 6 and the Standing Orders obviously came into operation under Section 7.

11. However, the Ministry of Labour, Government of India appeared to have issued an office memorandum, dated 29-7-1977 clarifying that wherever Section 13B applies, no Standing Orders need be certified and that if Standing Orders have already been certified, then the same would be invalid, but, unlike the Standing Orders of Madras Atomic Power Project, wherein there exists a clear provision to the effect that the Standing Orders are applicable only to those workers to whom the provisions of the fundamental rules, Central Civil Services (Classification, Control and Appeal) Rules, etc., are not applicable, the Standing Orders of the Nuclear Fuel Complex, Hyderabad do not appear to contain any such exclusionary clause. The said office memorandum itself refers to the Central Industrial Relations Machinery clarifying the Standing Orders of Nuclear Fuel Complex, Hyderabad having been certified, as they were required to do so by the management. The Regional Labour Commissioner (Central), Hyderabad, who certified the Standing Orders under the Statute also ventured to treat the above

letter as holding good, in his letter dated 18-1-1984.

12. The Deputy Secretary of Department of Atomic Energy, Government of India appeared to have addressed the Senior Administrative Officer, Nuclear Fuel Complex, Hyderabad on 10-8-1979 clarifying that the provisions of the Rules and not the Industrial Standing Orders are applicable to the employees of the Nuclear Fuel Complex, Hyderabad, a departmental[^] run undertaking. The basis or reasons for the clarification were conspicuous by their absence in the said letter.

13. The minutes of the meeting held with the Nuclear Fuel Complex Employees Association by the representatives of the management on 20th and 25th of October, 1984, referred to the status of the Nuclear Fuel Complex, Hyderabad in item 23, in which it was stated that the association was informed about the rules framed for Central Government employees being applicable to them and the matter being clarified by the Ministry of Labour with reference to Section 13B of the Act, which was brought to the notice of the association in the earlier letters of the management on 26-10-1983 and 22-12-1983. Thus, the said item contains only the perception of the management about the status of the Nuclear Fuel Complex, Hyderabad and its employees and not any mutual understanding or agreement between the management and the employees association in this regard.

14. Subsequently, the Chief Administrative Officer, Nuclear Fuel Complex, Hyderabad appeared to have issued a Circular, dated 12-5-2005 again referring to Section 13B of the Act and also claiming that no notification in Official Gazette issued by the appropriate Government, is required in this regard.

15. The orders of appointment of the petitioners, of course, specify that the other terms and conditions of their service including discipline will be governed by the rules as applicable to the Central Government employees of their status in Nuclear Fuel Complex, Hyderabad, from time to time.

16. While the official respondents are relying on the decisions of this Court in W.P. No. 13327 of 2005, dated 9-9-2005 and W.A. No. 2061 of 2005, dated 28-7-2006 arising there from, it is seen from a close perusal of both that the present question

was not determined therein. In W.P. No. 13327 of 2005, the Nuclear Fuel Complex Employees Trade Union Congress requested for a decision by the management as to whether the employees are 'industrial' or 'non-industrial' and to regulate their service conditions accordingly, in the light of the Circular from the Chief Administrative Officer, dated 12-5-2005 above referred to. The writ petition was dismissed by this Court on 9-9-2005, as the petitioner-association was not a recognized association or a majority union and as the majority union was not a party to the writ petition and as the remedy against the impugned proceedings, if any of the service conditions of the employees were affected, was elsewhere. This Court also referred to W.P. No. 16768 of 2005, wherein also the employees were referred to seek an appropriate remedy. In W.A. No. 2061 of 2005, a Division Bench of this Court while referring to a letter dated 28-7-2006 for treating the employees of the Nuclear Fuel Complex, Hyderabad as Government servants, dismissed the writ appeal to avail appropriate remedy before the Administrative Tribunal. As such, the decisions in the writ petition or writ appeal are no precedents on the question raised herein.

17. It has to be incidentally noted that the same Chief Administrative Officer of the Nuclear Fuel Complex, Hyderabad, who issued the Circular, dated 12-5-2005, admitted in his instructions to the Assistant Solicitor General in his letter dated 28-7-2006 that the Nuclear Fuel Complex, Hyderabad is an industrial establishment of the Department of Atomic Energy, Government of India, while claiming the employees to be Government servants governed by service rules and regulations.

18. In fact, as seen from the order in W.P.M.P. No. 4996 of 2004 and W.V.M.P. No. 1385 of 2004, in W.P. No. 3786 of 2004, dated 24-8-2004 by a Division Bench of this Court, in a matter involving disciplinary action against another Helper Grade-A by name G. Venkateswara Rao, the Senior Standing Counsel for the Central Government submitted that none of the rules made under Proviso to Article 309 of the Constitution of India were applicable to the services in which the employee was engaged and no such rules were brought to the notice of the Division Bench. The counter affidavits of the official respondents herein show that later W.P. No. 3786 of 2004 was disposed of in terms of the statement of the employee to co-operate with the conduct of enquiry under the Rules, but not on

merits.

19. By an office memorandum, dated 2-5-1973, the Senior Administrative Officer of the Nuclear Fuel Complex, Hyderabad informed that the Rules are not applicable to the workmen employed in an industry, who are governed by industrial laws, such as, Industrial Employment (Standing Orders) Act, 1946, etc., as specified in the appointment orders of the workmen. It is also clarified that the Nuclear Fuel Complex, Hyderabad is an industry to which industrial laws apply and there was no question of service rules applicable to non-industrial establishments being applied to industrial establishments. Still the employees were asked to exercise their option to elect to be governed by the industrial laws or the general service rules, in terms of the settlement with the employees association, dated 5-1-1973 and the consequential office memorandum, dated 9-4-1973.

20. While the official respondents attempted to contend that the service rules in contrast with the Standing Orders are more beneficial to the employees, the issue herein is not an assessment of comparative benefits under the two situations, but the service conditions governing the employees in accordance with law.

21. The petitioners had, in fact, brought to notice the order of the Tribunal in O.A. No. 959 of 2004, dated 22-7-2008, in which the employee/Tradesman-A in the Industrial Temporary (Workmen) Establishment of Nuclear Fuel Complex, Hyderabad was made subject to the Standing Orders by his appointment order, more particularly in the matter of discipline, which was reiterated in the order of his confirmation. The Tribunal reiterated its earlier view in O.A. No. 318 of 2003, dated 19-1-2004 (against which W.P. No. 3786 of 2004 was filed) that Certified Standing Orders alone are applicable to the employees empanelled as workmen in the industrial establishment and the Standing Orders are not applicable to those governed by the Rules, in view of Section 13B of the Act. The Tribunal distinguished the order in O.A. No. 101 of 2008, dated 18-3-2008 (the subject of W.P. No. 9541 of 2008) as being based on the appointment order of the employee therein mentioning him to be governed by the Rules. Consequently, the Tribunal set aside the charge memo, while permitting the management to proceed against

the employee under the Standing Orders.

22. The Industrial Employees (Standing Orders) Act, 1946 was enacted to require employers in industrial establishments to formally define and make known with sufficient precision, the conditions of employment of workmen employed by them. That the Nuclear Fuel Complex, Hyderabad is an 'industrial establishment' within the meaning of Section 2(e) and an employer' under Section 2(d) thereof and that the petitioners are workmen within the meaning of Section 2(i) thereof, is not in controversy. It is also admitted that draft Standing Orders were submitted to the Certifying Officer as per Section 3 of the Act and the Certifying Officer certified the said Standing Orders in terms of Section 5 of the Act. The Standing Orders certified on 27-8-1973 obviously came into operation under Section 7 of the Act. Under Section 10 of the Act, the Standing Orders finally certified under the Act shall not be liable to modification except as provided therein. Any oral evidence in contradiction of the Standing Orders is not admissible in any Court as per Section 12 and any contravention of the Standing Orders by the employer subjects him to penalty under Section 13. Any question as to the application or interpretation of a Certified Standing Order shall be referred to the specified and notified labour Court alone by an employer or workman or a trade union, under Section 13A.

23. The Act does not provide for any industrial establishment covered by the Statute escaping from its purview in respect of workmen employed in such establishment, except as provided under Section 13B or Section 14.

24. The Nuclear Fuel Complex, Hyderabad is admittedly not exempted by the appropriate Government by any notification in Official Gazette, conditionally or unconditionally, from all or any of the provisions of the Act, under Section 14.

25. Section 13B exempts the application of the Act to an 'industrial establishment' only in so far as the workmen employed or persons to whom the Civil Services (Classification, Control and Appeal) Rules, etc., or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply. While it is open to conflicting interpretations as to whether the words 'that may be notified in this behalf by the appropriate Government in the Official Gazette' are applicable to the specified rules, like the Civil Services

(Classification, Control and Appeal) Rules also or only to the unspecified rules referred to as 'other rules or regulations', admittedly there is no notification under Section 13B in respect of any employees of Nuclear Fuel Complex, Hyderabad.

26. If the Rules and other specified rules in Section 13B apply to the employees/workmen in question, irrespective of any notification by the appropriate Government in the Official Gazette, notwithstanding the Nuclear Fuel Complex, Hyderabad being admittedly an industrial establishment within the purview of the Act, then such employees/workmen may be susceptible to be considered to be covered by Section 13B. But when admittedly the management of the Nuclear Fuel Complex, Hyderabad considered itself to be an industrial establishment within the meaning of the Act and its industrial employees, who are workmen as defined in the Act, to be governed by the Act and got its Standing Orders certified on 27-8-1973, it is not open for it to contend that the service rules applicable to the Central Government servants as referred to in Section 13B, apply to such industrial employees/workmen even after the Standing Orders come into operation under Section 7 of the Act defining with sufficient precision their conditions of employment on all matters within the Schedule of the Act covering all matters covered by the rules and regulations specified in Section 13B.

27. The Act was the subject of consideration in *Shvastava v. Banaras Electric Light and Power Co. Ltd.* 1968 LLJ (2) 483 (All.) (F.B.). wherein a Full Bench of Allahabad High Court answered the question as to which would prevail in the case of conflict between the contract of service entered between the employee and the company, and the Standing Orders of the Company under the Act. The Full Bench held the object of the Act to be making the general terms and conditions of the employment to be not departable from by either side and the Act to be subjecting all industrial establishments covered by it to its provisions unless exempted under Section 14. The Full Bench pointed out that the Standing Orders were meant to constitute a set of basic general rules which could not be ignored or abandoned, departed from, modified or varied by special agreements with regard to any matter specifically contained in the Standing Orders and these basic and general conditions contained in the Standing Orders could not be by-passed by adopting the device of special agreements. After referring to the decisions of the Apex Court

and other High Courts on this aspect, the Full Bench concluded that the terms of a Standing Order would prevail over the terms of a contract which conflicts with a Standing Order and any terms of a contract which contravene a Standing Order would be struck by Section 23 of the Contract Act also.

28. In *Agra Electric Supply Co. Limited v. Alladdin* : (1969) IILLJ540SC ., the Apex Court made it clear that the object of the Act is to have uniform Standing Orders providing for matters enumerated in the Schedule to the Act and once the Standing Orders come into force, they bind all those presently in the employment of the concerned establishment as well as those who are appointed thereafter.

29. In *Western India Match Co. v. Workmen* 1973 SCC (L & S) 531., the Apex Court declared that the terms of employment specified in the Standing Order would prevail over the corresponding terms in the contract of service in existence on the enforcement of the Standing Order as held in *Agra Electric Supply Co. Limited v. Alladdin* : (1969) IILLJ540SC . The Supreme Court overruled the decisions, which took the view that notwithstanding the Standing Orders, it is open to the employer to conclude an agreement with an individual workman, which may be inconsistent with the Standing Orders. Reiterating *Salem Erode Electricity Distribution Co. Ltd. v. Salem Erode Electricity Distribution Co. Ltd. Employees Union* : (1966) ILLJ443SC , wherein it was held that an agreement prior or posterior to and inconsistent with the Standing Orders will not survive and shall not prevail, the Apex Court held that as long as the Standing Order is in force, it is binding on the company as well as the workmen.

30. The Act was a legislative response to the laissez-faire rule of hire and fire at sweet will and was an attempt at imposing a statutory contract of service between two parties unequal to negotiate, on the footing of equality, as pointed out by the Supreme Court in *Sudhir Chandra Sarkar v. Tata Iron and Steel Co. Ltd.* : (1984) IILLJ223SC . The Apex Court made it clear that the intendment underlying the Act and the provisions of the Act enacted to give effect to the intendment and the scheme of the Act leave no room for doubt that the Standing Orders certified under the 1946 Act become part of the statutory terms and conditions of service between the employer and his employee and they govern the relationship between

the parties. It was further held that certified Standing Orders, which statutorily prescribe the conditions of service, shall be deemed to be incorporated in the contract of employment of each employee with his employer.

31. The Delhi High Court in *Air India v. Union of India* 1991 Lab. I.C. 451., was referring to the requirement of a notification by the appropriate Government under Section 13B of the Act. If such a notification is prerequisite for application of any specified or unspecified rule or regulation as per Section 13B, then there is no such notification in the present case. But irrespective of the same, the certified Standing Orders in respect of the workmen being in force, the question is whether any terms and conditions of employment contained in the letter of appointment making any such rules applicable to the Central Government servants applicable to the workmen concerned, can override the statutory Standing Orders and as per the precedents above referred to, the answer is unambiguously in the negative.

32. In fact, in *Printers House (P) Ltd. v. State of Haryana and Ors.* 1982 LLN 327 (P & H)., it was held by a learned Judge of Punjab and Haryana High Court that the terms and conditions contained in the appointment letter cannot negative the conditions of employment contained in the Certified Standing Orders and the right of the employee cannot be negated by providing a term or condition to the contrary in the appointment letter.

33. When the management of Nuclear Fuel Complex, Hyderabad got the relevant Standing Orders certified under the Act considering itself to be an industrial establishment under the Act and the workmen as defined in the Act and employed with it to be liable to be subjected to precise conditions of employment in respect of all matters set out in the Schedule to the Act and covered by the draft Standing Orders, there is no way for the employer or the employee concerned to ignore the statutory Standing Orders in force with reference to any terms and conditions specified in individual letters of appointment. How either the Ministry of Labour or the Department of Atomic Energy of Government of India or the Certifying Officer/Regional Labour Commissioner (Central), Hyderabad can consider the Certified Standing Orders to be invalid, is unintelligible and incomprehensible, as any modification of the Standing Orders can only be under Section 10 of the Act

and any exemption from the Act or any of its provisions can only be under Section 14 and any inapplicability of the Act can only be under Section 13B.

34. The application of the rules and regulations applicable to the Central Government servants even to the employees governed by the Certified Standing Orders, was not claimed to be under any notification under Section 13B or due to the existence of any such clear provision in the Standing Orders themselves (as in the case of Madras Atomic Power Project referred to in the office memorandum, dated 29-7-1977) or at least under any agreement between the employer and the workmen or a trade union or other representative body of the workmen (the minutes of the meeting with the employees association recorded in the letter dated 29-10-1984 referring only to the association being informed about the status of the Nuclear Fuel Complex, Hyderabad and its employees).

35. Section 13B makes the Act inapplicable in respect of workmen to whom the specified or unspecified rules or regulations 'apply', but not in respect of the workmen, in respect of whom such rules or regulations are 'followed'. What the management of the Nuclear Fuel Complex, Hyderabad appears to contend since inception is that such rules and regulations are 'followed' in respect of such workmen but not that any such rules and regulations 'apply' to such workmen by virtue of any rules made under Article 309 of the Constitution of India or in any other manner. That there were no such rules and regulations made under Article 309 of the Constitution of India, was admitted as late as on 24-8-2004, as seen from the orders in W.P.M.P. No. 4996 of 2004 and W.V.M.P. No. 1385 of 2004 in W.P. No. 3786 of 2004. If the Nuclear Fuel Complex, Hyderabad is following the rules specified in Section 13B , without their being made applicable to the workmen in question through any acceptable legal process, the same will not operate as expressly excluding the Nuclear Fuel Complex, Hyderabad in respect of these workmen from the application of the Act. Any contrary views of any department of the Government of India or any official of the Nuclear Fuel Complex, Hyderabad or the Certifying Officer under the Act itself cannot nullify the binding nature of the certified statutory Standing Orders both on the employer and the employees notwithstanding any contrary recitals in the individual orders of appointment of any workman.

36. In both the impugned orders, the Tribunal straight away relied on the individual orders of appointment and the stand of the department and the management, and failed to consider the legal impact of the Certified Statutory Standing Orders in force in respect of such workmen. As such Standing Orders bind the employer and the employees and as the Standing Orders shall prevail over * any conflicting terms in the contract of employment or any special agreements between the employer and the workmen or the letters of appointment of workmen, the impugned orders of the Tribunal are unsustainable. The workmen of the Nuclear Fuel Complex, Hyderabad, governed by the Standing Orders under the Act duly certified in accordance with the statute on 27-8-1973 and in force up to date, are governed only by the said Standing Orders and no other rules and regulations and both the Nuclear Fuel Complex, Hyderabad and the workmen are bound by the same.

37. If so, the disciplinary action initiated under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 against the petitioners herein, who are undisputedly workmen governed by the Standing Orders, cannot be sustained in law and has to be nullified.

38. In the result, both the writ petitions are allowed and the orders of the Central Administrative Tribunal, Hyderabad Bench in O.A. No. 101 of 2008, dated 19-2-2008 are set aside and the disciplinary action initiated against the writ petitioners under Central Civil Services (Classification, Control and Appeal) Rules, 1965 is also set aside. However, it is open to the respondents to take afresh such further action they may desire and decide to take in respect of the subject matter of such disciplinary proceedings under the Certified Standing Orders under the Industrial Employment (Standing Orders) Act, 1946 applicable to the petitioners. No costs.