



\$~101

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 18325/2025 & CM APPL. 75888/2025

N A SEBASTIAN & ANR.

.....Petitioner

Through: Mr. Ravindra S. Garia, Mr. Sanjay Kumar, Mr. Adrija Bhadra, Mr. Sarfuddin Khan, Mr. Tej Bahadur Srivastava, Advocates.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Chetan Sharma, ASG with Mr. Ashish Dixit, CGSC, Ms. Gurleen Kaur Waraich, SPC, Mr. Surjeet Singh, GP, Mr. Jaideep Singh Waraich and Mr. Vivek Sharma, Advocates for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

%

03.12.2025

1. Issue notice to the respondent, on whose behalf Mr. Ashish Dixit, learned CGSC, has put in appearance and accepts notice.
2. This petition raises an important issue which has arisen on account of the impugned notification dated 21.11.2025 issued by the Central Government in the Ministry of Labour and Employment under Section 1(3) of Industrial Relations Code, 2020 (hereinafter referred to as "the Code"), whereby the Central Government has appointed 21.11.2025 as the date on which the provisions of the Code shall come into force.
3. Our attention has been drawn to Section 51 of the Code, which provides that on and from the date of the commencement of the Code, the cases pending immediately before such commencement in the Labour Courts and Tribunals constituted under the Industrial Disputes Act, 1947, shall stand transferred to the Tribunals having corresponding jurisdiction under the Code. It further

W.P.(C) 18325/2025

Page 1 of 3



provides that the cases pending before the National Tribunal constituted under the Industrial Disputes Act, 1947 shall be transferred to the National Industrial Tribunal having corresponding jurisdiction under this Code. As a result of operation of Section 51 of the Code, the cases which were pending before the Labour Courts and Tribunals created and incorporated under the Industrial Disputes Act, 1947 on or before 21.11.2025, at present stand transferred to the new Tribunal to be constituted under the Code, however the Industrial Tribunals under the Code have not yet been constituted.

4. Section 44 of the Code provides that the appropriate government may constitute one or more Industrial Tribunals for the adjudication of industrial disputes. It further provides that every Industrial Tribunal shall consist of two members to be appointed by the appropriate Government, out of whom one shall be a Judicial Member and the other, an Administrative Member. Sub-Section (4) of Section 44 of the Code provides that the qualification for appointment, method of recruitment, term of office, salaries and allowances and terms of conditions of service of the Judicial Member and the Administrative Member of the Tribunal to be constituted by the Central Government under the Code, shall be in accordance with the rules to be made under Section 184 of the Finance Act, 2017. We have been informed by the learned counsel for the petitioner that such rules under Section 184 of the Finance Act, 2017 have not been framed. In absence of the said rules, there is no likelihood that Industrial Tribunal under Section 44 of the Code can be constituted at present. However, by virtue of the operation of Section 51 of the Code, the cases pending before the Tribunals and Labour Courts created under the Industrial Disputes Act, 1947 stand transferred as on date of the notification dated 21.11.2025. As a result of the non-availability of the Industrial Tribunals under the Code, the cases which were pending on or before 21.11.2025 before the Tribunals/Labour Courts created under the Industrial Disputes Act, 1947



cannot be pursued any further. Even new labour or industrial disputes cannot be brought before any Tribunal on account of non-availability of the Tribunal to be constituted under the Code. It appears, *prima facie*, that the requisite provisions for the transition period permitting smooth transition of the new Labour Court has by inadvertence, been overlooked by the Central Government. As a result, the labour disputes remain unattended as on today, which might have arisen on or before 21.11.2025 or, which may arise thereafter.

5. We have requested Mr. Chetan Sharma, learned ASG representing the respondent to seek instructions in the matter and to take remedial steps, if any, as per law.

6. List on 10.12.2025.

7. Matter to be placed “High on Board”.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

DECEMBER 3, 2025

Sumit