Employer in relation to Management of Food Corporation of India Vs Upendra Kumar

Court: Jharkhand High Court

Date of Decision: Jan. 15, 2025

Acts Referred: Constitution of India, 1950 â€" Article 136, 226, 227
Industrial Disputes Act, 1947 â€" Section 2(s), 17B, 25F, 33, 33A
Evidence Act, 1872 â€" Section 106

Hon'ble Judges: Anubha Rawat Choudhary, J

Bench: Single Bench

Advocate: Nipun Bakshi, Shubham Sinha, M.M. Pal, Mohua Palit

Final Decision: Disposed Of

Judgement

Anubha Rawat Choudhary, J

1. This writ petition has been filed challenging the award dated 03.07.2012 (published in the gazette on 19.07.2012) passed by the learned Presiding

Officer, Central Government Industrial Tribunal No. 1 at Dhanbad in Reference Case No.21 of 1998 and 31 of 1998 whereby the petitioner has been

directed to reinstate the respondents (hereinafter referred to as respondent workmen) with 75% back wages payable from the date of making

reference, that is, 11.06.1998. A further direction has been issued to regularize them as watchmen in category-IV post with all consequential benefits

within two months from the date of publication of the award. The terms of reference in Reference Case No. 21 of 1998 and in Reference Case No.

31 of 1998 which were decided by the common impugned award dated 03.07.2012 is quoted as under:

Terms of Reference in Reference Case No. 21 of 1998

Whether the action of the management of Food Corporation of India, Patna in retrenching S/Sri Upendra Kumar and Ramesh Kumar w.e.f. 1.8.86 in

contravention of Sec. 25-F of the I.D. Act, 1947 and denying reinstatement with full back wages and regularisation of service as per H.Q. Circular dated 6.5.87 is

legal and justified? If not, to what relief are the workmen entitled?

Terms of Reference in Reference Case No. 31 of 1998

Whether the action of the management of FCI, Patna in retrenching S/Sh. Manoj Kumar, Saroj Kumar, Akhilesh Kumar, Arun Kumar and Arvind Singh w.e.f.

1.9.1986 in contravention of Section 25-F of I.D. Act, 1947 and denying reinstatement with full back wages and regularisation of services as per H.Q. Circular

dated 6.5.1987 is legal and justified? If not, to what relief are the workmen entitled?

2. Before the Central Government Industrial Tribunal No. 1 at Dhanbad (hereinafter referred to as ""the Tribunal""), the petitioner

(hereinafter referred to as ""the management"") produced one witness and proved the documents as Exhibit M-1 to Exhibit M-3 and the respondent

workmen produced two witnesses who produced the documents Ã¢â‚¬" Exhibit W-1 to Exhibit W-21. Both the references were heard together as similar

issues were involved. The learned Tribunal gave its conclusions in paragraph 9 of the award as under:

9. In the result, I render the following award-

The action of the management of Food Corporation of India, Patna, in retrenching S/Sri Upendra Kumar and Ramesh Kumar of Reference No. 21 of 1998 and

S/Sri Manoj Kumar, Saroj Kumar, Akhilesh Kumar, Arun Kumar and Arvind Singh of Reference No. 31 of 1998 w.e.f. 1.8.1986 and 1.9.1986 respectively, in

contravention of Sec. 25-F of I.D. Act, 1947 and denying reinstatement with full back wages and regularisation of service as per H.Q. Circular dated 6.5.87 is not

legal and justified.

In the circumstances of the case, I hold that the concerned workmen involved in Reference No. 21 of 1986 are entitled to be reinstated in service w.e.f. the date of

their retrenchment i.e. 1.8.1986 and the concerned workmen involved in Reference No. 31 of 1986 are entitled to be reinstated in service w.e.f. the date of their

retrenchment i.e. 1.9.1986. All the concerned workmen of both the reference cases are also entitled to be regularised as per H.Q. Circular dated 6.5.1987 (Ext. W-

4) as Watchmen in Category- IV with 75% back wages from the date of reference i.e. 11.6.1998 and other consequential benefits. The management is directed to

implement the award within two months from the date of publication of the award in the Gazette of India.

Arguments of the petitioner (management)

3. The learned counsel for the management has submitted that in this writ petition, common award passed in Reference Case No.21 of 1998 and

Reference Case No.31 of 1998, has been challenged.

4. The learned counsel for the management submits that in Reference Case No.21 of 1998 there are two workmen, who are respondent nos.1 and 2,

and in the other case, there are five workmen, who are respondent nos.3 to 7. He has also submitted that the evidences in both the cases were

common. He submits that the respondent nos.1 to 7 claimed that they had worked during the period from 01.08.1985 to 31.07.1986/31.08.1986 as

casual workman and had completed 240 days of service, but they were discontinued in violation of section 25-F of Industrial Disputes Act, 1947

(hereinafter referred to as the Act of 1947). Their further grievance was that the scheme of regularization which was prevalent in the

establishment of the management was also not given effect to so far respondent workmen are concerned.

5. The learned counsel submits that the respondent workmen were claiming regularization by virtue of Circular dated 06.05.1987 (hereinafter referred

to as the Circular) wherein the cut-off date was 02.05.1986 which provided that upon completion of more than 3 months on the cut-off date, the

workmen were entitled for regularization.

6. The learned counsel submits that a writ petition being CWJC No.1947 of 1995 (R) was filed which was disposed of on 15.07.1996. He submits that

in the said writ petition, the industrial dispute was not referred, but it was observed that the workmen could file their representation in connection with

claim of regularization. Ultimately the representation was filed on 02.08.1996 and was rejected on 13.12.1996. It was the order of rejection which has

been treated to be a cause of action for the fresh reference. The reference included the examination with respect to the violation of section 25-F of

the Act of 1947 and also the claim for regularization as per the aforesaid Circular.

7. The learned counsel submits that the specific stand of the management was that respondent workmen never worked in the corporation and the

certificate which was issued by R.C. Sinha, the depot incharge, was itself not reliable in view of the fact that a departmental proceeding was initiated

against him for having given false certification. He submits that R.C. Sinha was ultimately punished in the departmental proceeding.

8. The learned counsel has further submitted that none of the workmen, who are respondents in the present case deposed before the court. Rather,

two witnesses were produced on behalf of the workmen. WW-1 was the watchman, who was not working at the relevant point of time and he had

joined subsequently. So far as WW-2 is concerned, he was only a visitor to the premises and was not a co-worker.

9. The learned Tribunal has also awarded back wages to the extent of 75% although there was no evidence that the respondent workmen were not

gainfully employed after their discontinuation way back in the year 1986.

10. The learned counsel has referred to judgment passed by the Hon'ble Supreme Court reported in (2006) 6 SCC 221 (Reserve Bank of India Vs.

Gopinath Sharma and Another) paragraph 22 to submit that the back-wages could not have been awarded in absence of any evidence that they

were not gainfully employed. He has also relied upon the judgment reported in (2019) 10 SCC 695 (General Manager, Electrical Rengali Hydro

Electric Project, Orissa and others Vs. Giridhari Sahu and others)p ara 26 and 27 to submit that an award passed without any evidence is

perverse.

Argument of the Respondent Workmen

11. On the other hand, the learned Senior counsel appearing on behalf of the respondent workmen, has submitted that the two reference cases, though

were clubbed, and a common award was passed, but one writ petition for both the reference was not maintainable. She has also submitted that the

petition under Section 17-B of the Act of 1947 was filed before this Court on 27.07.2016 which itself reflects that the respondent workmen were not

gainfully employed. She has further submitted that the respondent workmen were appointed on 01.08.1985 on casual basis and were stopped from

working w.e.f. 01.08.1986/01.09.1986 and the delay in reference which was made on 11.06.1998 is duly explained in view of the judgment passed in

the earlier writ petition and subsequent representation and rejection of representation seeking regularization.

12. The learned Senior counsel has referred to Exhibit W Ã¢â‚¬" 1, which was order passed in Reference Case No.94 of 1996 and has submitted that the

respondent workmen were also entitled for similar relief. She submits that other persons were regularized and the respondent workmen were not

regularized, and therefore, the action of the management was arbitrary and discriminatory.

13. She has further referred to the judgment passed by the Hon'ble Supreme Court reported in (2013) 10 SCC 324 [Deepali Gundu Surwase Vs.

Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and ors.] paragraph 38.6 to submit that there is no illegality in giving back-wages to the extent of

75% once a termination was held to be illegal, the reinstatement with back-wages is an automatic consequence.

14. The learned Senior counsel has also relied upon the judgment passed by the Hon'ble Supreme Court reported in (2014) 7 SCC 190 (Hari

Nandan Prasad and another Vs. Employer I/R to Management of Food Corporation of India and another)to submit that the said case also

was arising out of the same scheme of regularization and the respondent in the said case is the petitioner before this court in this case. She has

submitted that in the said case, 50% back-wages was granted. The learned Senior counsel submits that so far as the appellant no.1 before the Hon'ble

Supreme Court is concerned, he was not in service on the date when the scheme was promulgated. He was given the relief of monetary

compensation in lieu of reinstatement. So far as appellant no.2 before the Hon'ble Supreme Court is concerned, he was given benefit of the circular as

has been given to other similarly situated employees and he was entitled to 50% back- wages and regularization.

Findings of this Court

15. The case of the respondent workmen before the learned Tribunal was that they were employed by the management on 01.08.1985 at Patahi as

casual employee and acted as watchman/messenger. They also used to fill loose grain in bags and did other works. Their attendance was being

marked by the staff of the management, but they were not allowed to put their signature in the attendance register. They performed their duty since

01.08.1985 but suddenly on 01.08.1986/01.09.1986, they were stopped from attending their job verbally and they had completed 240 days of service

during 12 calendar months upto 31.08.1986. It was the case of the respondent workmen that their retrenchment from 01.09.1986 was in contravention

of section 25-F of the Act of 1947 and was void ab initio and they were entitled for reinstatement with full back wages as regular class-IV employees

with effect from 01.09.1986. They also sought regularization of their services in Class-IV and Class-III posts as per headquarter circular dated

06.05.1987 which stipulated that all the casual/daily rated workmen who had completed 90 days of service on or before 02.05.1986 shall be

regularized. Being dissatisfied with the attitude of the management, the respondent workmen approached the Assistant Labour Commissioner and

upon failure of conciliation, they raised the industrial dispute. They prayed for reinstatement with full back wages.

16. On the other hand, it was the specific case of the management that the respondent workmen had moved in writ petition being CWJC No. 1947 of

1995 (R) and pursuant to the order dated 15.07.1996 passed in the said case, the management received the representation which was examined by

them thoroughly. It was found that the respondent workmen were never engaged in any capacity in district office as claimed by them or anywhere

else under the management. It was further case of the management before the learned Tribunal that as the respondent workmen were not on roll,

there was no occasion to consider their case for regularization in accordance with the policy decision vide aforesaid circular dated 06.05.1987. After

due enquiry, an order dated 13.12.1996 was passed rejecting the representation of the concerned persons. Consequently, it was asserted that the

concerned persons were not workmen within the meaning of section 2(s) of the Act of 1947 and accordingly, there was no contravention of section

25-F of the Act of 1947 and also that the circular of the headquarter was not applicable to such persons. It was also asserted on behalf of the

management that the certificates procured by the respondent workmen showing engagement at the office at Patahi were from interested officials of

the management and were contrary to the records and departmental norms and said certificates were fraudulent and bogus and not binding upon the

management. A submission was made that the respondent workmen were not entitled to any relief.

17. The reference was made on 11.06.1998 on both the points, challenge to retrenchment [for non-compliance of section 25-F of the Act of 1947] and

claim for regularization [as per aforesaid circular].

18. This Court finds that the learned Tribunal has thoroughly considered the evidence of the management witness and also his cross-examination and

recorded that as per the evidence of the management witness, a letter was issued from Senior Regional Manager, FCI, Patna for verification of

records of the respondent workmen which was marked as Exhibit M-1. Exhibit M-2 was the report prepared by Mr. Banerjee who also verified the

registers. The learned Tribunal also considered the payment vouchers showing engagement of casual labour during the period February, 1985 to May,

1989 which were marked exhibits and also considered the voucher showing contingency advance and contingency expenditure bill payment during the

period from September, 1985 to June, 1989 in respect of Patahi depot where the respondent workmen claimed to be working. The voucher was

marked as Exhibit M-2/2. During his cross-examination, the management witness stated that he was not aware as to whether there was any

attendance register during the period from 1984 to 1986 maintained at Patahi depot in respect of casual employees and that prior to submitting his

report, he did not obtain any report in writing from those depot in-charge who were posted at Patahi depot during the period from 1984 to 1986. The

learned Tribunal also considered the evidences produced by the respondent workmen, both oral and documentary, while coming to the findings as

recorded above. This Court also finds that before the learned Tribunal no material was brought on record with regard to punishment of one or the

other officer of the management in connection with records maintained at Patahi depot.

19. This Court finds that the learned Tribunal scrutinized the evidence of the parties, both oral and documentary, and came to a finding that the

respondent workmen had worked more than 240 days during 12 calendar months preceding the date of their retrenchment without following the

provisions of section 25-F of the Act of 1947. Apart from the aforesaid violation of section 25-F of the Act of 1947, it was also held that the

concerned workmen were all daily rated employees who had completed 3 months' service as on 02.05.1986 and were having requisite qualification

and consequently, they were to be regularized against entry level class-III and class-IV posts as per the circular dated 06.05.1987 which was issued

by the management after due approval of the board of directors. The learned Tribunal also considered that there was vacancy in the post of

watchman in class-IV category hence the management must regularize the services of the respondent workmen as class-IV employee. The findings

of the learned Tribunal have already been quoted above. The plea of the management that there was no record available to demonstrate that the

respondent workmen had worked with the management at Patahi, was also rejected by the learned Tribunal. The findings of the learned Tribunal are

based on appreciation of evidences produced by the parties, both oral and documentary. Award in similar cases were also exhibited before the learned

Tribunal. The action of the management in retrenching the respondent workmen and not regularizing them in terms of their own circular was found to

be unfair, arbitrary and discriminatory.

20. This Court finds that before the learned Tribunal the concerned workmen had not stated that they were not gainfully employed during the period

they remained out of employment still the learned Tribunal awarded 75% of back wages from the date of reference till the date of award with a

direction to regularize and other consequential benefits. This Court is also of the considered view that grant of benefit under section 17-B of the Act of

1947 does not have any bearing on the fact as to whether they were out of employment from the date of retrenchment till the date of passing the

award.

21. While granting consequential relief it was held by the learned Tribunal that the respondent workmen in Reference Case No.21 of 1998 were

entitled to be reinstated in service with effect from the date of their retrenchment i.e. 01.08.1986 and the respondent workmen involved in Reference

Case No.31 of 1998 were entitled to be reinstated in service with effect from the date of their retrenchment i.e. 01.09.1986. However, while granting

monetary relief the back wages were not granted from the date of retrenchment but from the date of reference i.e. 11.06.1998 and the back-wages

were granted only to the extent of 75%. Thus, in spite of having been held that the retrenchment of the respondent workmen was violative of section

25-F of the Act of 1947, the back-wages were not awarded to the respondent workmen from the date of their retrenchment till the date of reference

which was about a decade. Further, in spite of having found that the respondent workmen were entitled to regularization by virtue of the aforesaid

circular dated 06.05.1987 and such benefit was wrongly denied by the management, no relief in terms of back wages was granted to the respondent

workmen for the period from 06.05.1987 till the date of reference, that is, for a period about a decade.

22. This Court is of the considered view that the management having failed to act as per their own circular cannot be justified to argue that the

respondent workmen were not entitled to any relief in terms of back-wages.

23. In the judgment passed by the HonÃ¢â‚¬â„¢ble Supreme Court reported in Hari Nandan Prasad (Supra) in which the present writ petitioner was the

respondent, the learned Industrial Tribunal had given separate awards in respect of each of the appellants i.e. award dated 12.12.1996 in respect of

appellant no. 1 and award dated 18.12.1996 in respect of appellant no. 2. In the said case, the concerned Industrial Tribunal held that the termination

was in contravention of section 25-F of the Act of 1947 and also directed for regularization from the date of stoppage of their service in terms of the

aforesaid circular dated 06.05.1987 and observed that as per the circular, the management had regularized similarly situated casual workers and

therefore, denying the same benefit to concerned workmen amounted to discrimination and awarded back wages to the extent of 50%. The

HonÃ¢â‚¬â„¢ble Supreme Court, while dismissing the case of Hari Nandan Prasad (appellant no. 1 before the Hon'ble Supreme Court) held that his

services were dispensed with 4 years prior to the issuance of said circular and therefore, the relief of monetary compensation in lieu of reinstatement

was more appropriate. So far as other appellant i.e. appellant no. 2 namely Gobind Kumar Choudhary was concerned, it was observed that he was

engaged on 05.09.1986 and continued till 15.09.1990 when his services were terminated and he had immediately raised his grievance. It was held by

the Hon'ble Supreme Court that non-regularization of his service while giving the benefit of the circular dated 06.05.1987 to other similarly situated

employees was clearly discriminatory and appellant no. 2 was ultimately held to be entitled to back wages to the extent of 50% from the date of his

termination.

24. This Court finds that the respondent workmen herein have not been granted back-wages for the period after their retrenchment in the year 1986

till the date of reference although the learned Tribunal held that the termination was in contravention of section 25-F of the Act of 1947 and they were

also entitled to regularization in terms of the aforesaid Circular dated 06.05.1987. However, they were awarded 75% back wages from the date of

reference i.e. 11.06.1998 along with other consequential benefits. Further, there is no foundational pleading from the side of the concerned workmen

before the learned Tribunal, much less any statement that the respondent workmen were not gainfully employed during the period they remained out

of employment.

25. In the judgement reported in (2006) 1 SCC 479 (U.P. State Brassware Corpn. Ltd. and Another -vs- Uday Narain Pande)y, it has been held

that it is now well-settled by various decisions that although earlier the Hon'ble Court insisted that it was for the employer to raise the plea that the

concerned workman was employed during his termination period, but having regard to the provisions of Section 106 of the Indian Evidence Act or the

provisions analogous thereto, such a plea should be raised by the workman and that the initial burden is on the employee to plead that he remained

unemployed and then the employer can bring on record materials to rebut the claim.

26. However, there are other factors also which are required to be considered with respect to grant of back-wages. In the judgement passed by the

Hon'ble Supreme Court in the case of (2013) 10 SCC 324 [Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D. Ed) and

Others], the proposition for grant of back wages have been culled out in paragraph 38. It has been held that in cases of wrongful termination of

service, reinstatement with continuity of service and back-wages is the normal rule, but this rule is subject to the rider that while deciding the issue of

back-wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of

misconduct, if any, found proved against the employee / workman, the financial condition of the employer and similar other factors. It has also been

held that ordinarily, an employee or workman whose services are terminated and who is desirous of getting back-wages is required to either plead or

at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on

lesser wages and if the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the

employee / workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. It has

also been held in the aforesaid judgement that the cases in which the competent Court or Tribunal finds that the employer has acted in gross violation

of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or

Tribunal will be fully justified in directing payment of full back-wages and in such cases, the superior Courts should not exercise power under Article

226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a

different opinion on the entitlement of the employee/workman to get full back wages or the employerÃ¢â‚¬â„¢s obligation to pay the same. It has also been

held by the Hon'ble Supreme Court that the Courts must always keep in view that in the cases of wrongful / illegal termination of service, the

wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by

relieving him of the burden to pay to the employee/workman his dues in the form of full back-wages.

27. So far as the judgment passed by the Hon'ble Supreme Court reported in (2006) 6 SCC 221 (Reserve Bank of India Vs. Gopinath Sharma and

Another) is concerned, the said judgment does not apply to the facts and circumstances of this case. In the said case the HonÃ¢â‚¬â„¢ble Supreme Court

held that the concerned workman had worked only for 58 days and had not completed 240 days of service and the concerned High Court had allowed

the writ petition filed by the workman without taking into consideration the aforesaid aspect of the matter and had allowed back-wages to the extent of

10% for part period and to the extent of 50% for the remaining period. In the present case, the learned Tribunal has recorded a finding that the

respondent workmen were entitled to regularization as per circular of the management and that the management had acted against their own circular

and in a discriminatory manner.

28. In the judgment passed by the HonÃ¢â‚¬â„¢ble Supreme Court reported in (2019) 10 SCC 695 (General Manager, Electrical Rengali Hydro

Electric Project, Orissa and others Vs. Giridhari Sahu and others), the HonÃ¢â‚¬â„¢ble Supreme Court was of the view that no case at all was made

out before the learned Labour Court for invoking section 33-A read with section 33 of the Act of 1947 and keeping in mind the principle that upon

finding of illegality a Court is bound to interfere, the HonÃ¢â‚¬â„¢ble Supreme Court recorded that the appellant had made out a case of manifest injustice

if the award was allowed to stand. It was in this context the discussion was made in connection with exercise of power under Article 226 and 227 of

the Constitution of India in the circumstances where the case was based on no evidence. The principle of law as enunciated by the HonÃ¢â‚¬â„¢ble

Supreme Court in paragraph 26 and 27 of the aforesaid judgment is well-settled. However, the same has no bearing in the matter of award of back-

wages as the award of back-wages is dependent upon many attending circumstances as enumerated in the case of Deepali Gundu Surwase (supra)

and is not merely based on pleading/case of the workmen as to whether the workmen remained gainfully employed during the period they were out of

employment.

29. Upon perusal of the earlier order relating to the concerned workmen involved in the present case i.e. the order passed in CWJC No. 1947 of

1995(R), this Court finds that the subject matter of the said writ petition was letter dated 04.07.1995 by which the concerned authority refused to

make reference of industrial dispute. In the said case, this Court recorded that there was a delay of more than 7 years in raising the dispute which was

without any explanation and ultimately, refused to interfere with the order impugned. However, this Court was of the further view that so far the

grievance of the concerned workmen in connection with their entitlement for regular appointment in terms of the policy decision i.e. aforesaid circular

dated 06.05.1987 was concerned, at least the same required consideration by the management. Consequently, this Court directed the management to

look into the matter upon filing of representation by the concerned workmen and it was also observed that if the management found that the

concerned workmen were on roll as on 02.05.1986 and had completed more than 3 months of service and fulfilled the other criteria of the circular

dated 06.05.1987, such workmen were to be considered for regular appointment against existing vacancy or future vacancy and such decision was to

be taken within 4 months of the date of representation. The writ petition was disposed of vide order dated 15.07.1996. The present reference was

ultimately made vide reference dated 11.06.1998.

30. This Court is of the view that the learned Tribunal was justified in not granting any relief so far as back-wages for any period prior to the date of

reference is concerned. For the period after the date of reference, the learned Tribunal has granted relief with respect to back-wages to the extent of

75% without any foundational pleading much less any statement that the respondent workmen remained out of employment during their period of

retrenchment. However, the finding that the management acted against their own circular and granted relief to others and not to the respondent

workmen also has an important bearing in the matter. This Court also finds that another person who was entitled to the benefit under the aforesaid

circular and had immediately raised the industrial dispute who was the appellant no.2 in the aforesaid case of (2014) 7 SCC 190 (supra) decided by the

HonÃ¢â‚¬â„¢ble Supreme Court, he was granted back-wages only to the extent of 50%.

31. Considering the totality of the facts and circumstances of this case and taking into consideration the fact that there is complete lack of foundational

plea by the respondent workmen that they were out of employment from the date of retrenchment till the date of award and also the fact that that the

management had acted against their own circular and considering the action of the management in not regularizing the services of the respondent

workmen while others were regularized and the learned tribunal has totally denied the back wages from the date of retrenchment till the date of

reference, this court is of the considered view that the respondent workmen are certainly entitled to some back wages. Considering the totality of the

facts and circumstances of this case as discussed above and the scope of interference under Article 226/227 of the Constitution of India against the

award passed by Labour Court/Industrial Tribunal in the light of the fact that the learned tribunal has completely ignored that there was neither any

material nor any plea raised by the respondent workmen before the learned Tribunal that they remained out of employment till the date of award and

also the judgement passed in the case of (2014) 7 SCC 190 (supra) as discussed above, grant of back wages to the extent of 75% from the date of

reference as directed by the impugned award calls for interference and is reduced to 50% from the date of reference and is to be granted only till

their age of superannuation as per norms in case one or the other respondent workmen has already attained the age of superannuation during the

pendency of reference or during the pendency of this case.

32. This writ petition is accordingly disposed of with modification of the award only on the point of back wages in terms of this judgement.

33. Pending interlocutory application, if any, is closed.

34. Let the records received from the learned Tribunal be sent back forthwith.