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(2002) 07 JH CK 0008

Jharkhand High Court

Case No: LPA No. 461 of 1999 (R)

The Tata Iron and Steel Company Ltd.		APPELLANT
	Vs	
Md. Ziauddin and Others		RESPONDENT

Date of Decision: July 11, 2002

Hon'ble Judges: S.J. Mukhopadhaya, J; Lakshman Uraon, J

Bench: Division Bench

Advocate: B.P. Verma and G.M. Mishra, for the Appellant; A.K. Sahani, for the Respondent

Final Decision: Allowed

Judgement

S.J. Mukhopadhaya and Lakshman Uraon, JJ.
The respondent-appellant the Tata Iron & Steel Company Limited (TISCO for short) being not satisfied with the order dated 23rd September, 1999 passed by learned single Judge in CWJC No. 1664 of 1998 (R), has challenged the order.

2. By the impugned order, learned single Judge modified the award in part and held that the writ petitioners (workmen-respondents) will be entitled to get back-wages from December, 1984 till the date of notification.

3. The only issue raised on behalf of appellant is whether learned single Judge without appreciation of evidence and holding finding of Tribunal, as erroneous or perverse, can allow full back-wages or not.

4. The brief fact of the case is that the writ petitioners- workmen Md. Ziauddin and Nand Rekha Sharma while working under TISCO were charge-sheeted and after departmental enquiry, they were dismissed from services on 19th May, 1979 and 4th June, 1978 respectively.

5. It appears that for about 5 to 10 years, no demand or dispute was raised by any of the writ petitioners. Subsequently, when they raised dispute, the State Government

vide notification dated 6th May, 1991 and 29th April, 1991 referred two disputes to Labour Court, Jamshedpur. They were registered as Reference Case No. 17 of 1991 (in respect of workman Ziauddin) and Reference Case No. 19 of 1991 (in respect of workman Nand Rekha Sharma). Learned Presiding Officer, Labour Court, Jamshedpur on hearing the parties and on appreciation of evidence, passed common award on 16th September, 1995 and held both the orders of dismissal illegal. So far as back-wages on their reinstatement is concerned, learned Presiding Officer taking into consideration the evidence on record, held that there being inordinate and unreasonable delay in raising demand they will only get half of the back wages from the date of raising demand till the date of reference i.e. from 11th July, 1989 to 6th May, 1991 in the case of Md. Ziauddin and from 6th May, 1988 to 20th April, 1991 in the case of Nand Rekha Sharma. Full wages was allowed from the date of notification of reference till the date of superannuation.

6. However, learned single Judge by impugned judgment, varied the award and ordered to pay full wages from December, 1984.

7. The issue as to how much back-wages a workman is entitled on reinstatement fell for consideration before Supreme Court in the case of PGI of ME(n) Research v. Raj Kumar, reported in 2000 (I) LLJ 546 SC. The Apex Court observed that in the matter of back- wages if the issue has been dealt with by the Labour Court having regard to the facts and circumstances of the case upon exercise of its discretion, obviously in a manner which is judicious in nature, the High Court should not interfere with such findings. There exists an obligation on the part of the High Court to record in the judgment the reasoning to differ with the finding of a Labour Court.

8. In the present case, learned single Judge failed to give any reasoning to differ with the finding of Labour Court, nor it has been declared that the finding of Labour Court in respect of back-wages is erroneous or perverse. In the last part of the impugned judgment of 23rd September, 1995 though the learned single Judge observed that the Labour Court should have awarded half backwages form December, 1984 instead of 1988-89, but allowed full back-wages from December, 1984.

9. Thus, for the reasons aforesaid, the order dated 23rd September, 1999 passed by learned single Judge cannot be upheld, which is set aside.

10. In the result, the award jointly passed in the case of both the workmen is affirmed. The Letters Patent Appeal is, accordingly, allowed. However, there shall be no order as to costs.