

(2009) 08 JH CK 0017

Jharkhand High Court

Case No: Writ Petition (L) No. 3623 of 2003

Management of Steel Authority
of India, Bokaro Steel Plant

APPELLANT

Vs

The Workman Sri S.D. Pandey

RESPONDENT

Date of Decision: Aug. 4, 2009

Acts Referred:

- Constitution of India, 1950 - Article 226
- Industrial Disputes Act, 1947 - Section 17B

Hon'ble Judges: Amareshwar Sahay, J

Bench: Single Bench

Advocate: G.M. Mishra, for the Appellant; Bhaiya Vishwajeet Kumar, for the Respondent

Final Decision: Dismissed

Judgement

Amareshwar Sahay, J.

The petitioner, Management of Steel Authority of India, Bokaro Steel Plant, by filing this writ petition has challenged the Award dated 4.12.2002 passed by the Labour Court, Bokaro Steel City, whereby the Labour Court directed reinstatement of the workman with 35% back wages along with all other consequential benefits except the back wages for the period from 28.2.1989 to August 1990.

2. The case of the writ petitioner is that the workman S.D. Pandey was a Mazdoor and he joined the service of Bokaro Steel Plant on 2.6.1973 but he was always absenting from duty unauthorizedly right from 1976 till he was finally charge sheeted and dismissed from the service of the Company after due and proper enquiry.

3. On the other hand, the case of the workman is that he is a displaced person, whose house, homestead and agricultural lands were acquired for setting up the Bokaro Steel Plant. He was appointed under a scheme under which displaced persons were given appointment and accordingly, he joined his service on 2.6.1973.

In course of his service, he developed some disease, so he was forced to go on leave on medical advice and he never absented from his service without prior sanction and information. He fell seriously ill on 21.2.1989 because of jaundice and then was hospitalized for treatment. According to the petitioner, he had informed about his sickness by sending applications supported with medical certificate to the Company. Further case of the workman is that the punishment of dismissal from the service is illegal and unjustified and in any case is harsh and disproportionate to charge levelled against him not commensurate with gravity of the misconduct.

4. During pendency of this application, by filing an interlocutor application, a prayer was made on behalf of the workman that the Management be directed to pay full back wages and current wages during the pendency of the writ petition as envisaged u/s 17B of the Industrial Disputes Act. In paragraph-6 of the said interlocutory application, the workman did specifically state that he was sitting idle since the date of his dismissal. By order dated 10.8.2004, the said application u/s 17B of the I.D. Act tiled by the petitioner was allowed.

5. Mr. G.M. Mishra, learned Counsel appearing on behalf of the petitioner submitted that the concerned workman has already reached the age of superannuation on 30.6.2005 during pendency of this writ petition and therefore, the question of his reinstatement in service cannot and does not arise. He, however, submits that the direction of the Labour Court granting 35% of the back wages is not legal and valid since the onus was on the workman to establish the fact that after he was dismissed from service, he was not gainfully employed anywhere, but the petitioner failed to discharge the said onus.

6. Mr. Bhaiya Vishwajeet Kumar, learned Counsel appearing for the concerned workman submitted that the findings of facts arrived at by the Labour Court on the basis of the materials and evidence on record cannot be interfered with by the High Court in exercise of its writ jurisdiction since the writ of certiorari is a Supervisory Jurisdiction and in exercise of such jurisdiction only any error of law can be collected not any error of facts howsoever grave it may be.

7. Considering the above facts as well as the rival submissions made by the parties, I am of the view that Mr. G.M. Mishra, has rightly submitted that since the petitioner has now reached the age of his superannuation on 30.6.2005 during pendency of the writ petition and as such, now the question for reinstatement of the workman has become infructuous.

8. So far as the question of payment of 35% of back wages along with all consequential benefits as directed by the Labour Court is concerned, I find that the Labour Court on the appreciation of the evidence and materials on record has come to a finding on facts and then has ordered for payment of 35% of the back wages and this finding on consideration and on appreciation of facts and evidence on record cannot be interfered with, in exercise of the jurisdiction under Article 226 of

the Constitution of India since as has been held in the case of [Syed Yakoob Vs. K.S. Radhakrishnan and Others](#), wherein it has been held that the findings on facts arrived at by the Labour Court or the Tribunal cannot be questioned by the High Court while exercising Supervisory powers. No jurisdictional error in the impugned order has been pointed out.

9. In view of the discussion and findings above, I do not find any merit in this writ petition. Accordingly, the same is hereby dismissed but without any costs. The award of the Labour Court regarding payment of back wages as aforesaid be implemented by the respondent-Management forthwith within a period of eight weeks, failing which it shall carry interest at the rate of 9% per annum from the date of award till the date of actual payment.