

(2005) 05 JH CK 0011

Jharkhand High Court

Case No: None

Employers in relation
to the Management of
TISCO Ltd.

APPELLANT

Vs

Concerned Workman,
Madhuri Devi

RESPONDENT

Date of Decision: May 12, 2005

Acts Referred:

- Constitution of India, 1950 - Article 226
- Industrial Disputes Act, 1947 - Section 10

Citation: (2008) 1 JCR 244

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M.Y. Eqbal, J.

In this writ petition the petitioner-Management of M/s. TISCO Ltd. has challenged the award dated 11.6.2004 passed by the Central Government Industrial Tribunal No. 2, Dhartnad in Reference Case No. 206/98 whereby he has answered the reference in favour of the concerned workman.

2. The Government of India, Ministry of Labour, in exercise of power conferred on them u/s 10(1)(d) of the Industrial Disputes Act, 1947, referred the following dispute to the Tribunal for adjudication vide order dated 30.9.1998:

Whether the action of the management of Bhelatand Colliery of M/s. Tisco in not providing employment to the dependant Smt. Madhuri Devi, wife of late Mahadeo Sao, Ex-stone cutter (Although the management of M/s. Tisco has already offered

temporary employment for a period of 18 months to Smt. Madhuri Devi as per their letter BYLD/p/09/3012 dated 28/30.12.1993 during the period of sickness and suffering from cancer of her deceased husband Mahadeo Sao and denying the same by the management of M/s. Tisco after the death of late Mahadeo Sao) is justified ?. If not to what relief the dependant Smt. Madhuri Devi wife of late Mahadeo Sao is entitled ?

3. The facts of the case, in brief, is that the deceased, Mahadeo Sao was in the service of the petitioner-Management as Stone Cutter. He met with an accident and sustained grievous injury to his person. In course of prolonged treatment it was detected by the doctor of Tata Main Hospital that he was suffering from cancer. During the period of his sickness and suffering his family members became helpless and since he was the only source of income to maintain his family, the widow was, therefore, provided employment on 30.12.1993 for a period of 18 months. She started working and during the period of her employment her husband expired on 16.1.1994 being cancer patient. Thereafter, she was removed from service with effect from 21.11.1989.

4. The case of the Management, on the other hand, was that there is no rule or procedure for making such temporary employment as permanent and the service of such temporary employee gets automatically terminated.

5. Before the Tribunal various circulars and orders were produced from both the sides and evidences were also led. The Tribunal, after appreciating the entire evidence, came to the following conclusion:

It is seen that from the very beginning of re-employment of Mahadeo Sao, Management not only took lenient view in the matter of his continuity in service but also provided employment to his wife while he was detected a patient of cancer to save his family from starvation. All those steps were taken as a part of welfare policy launched by the Management for the workmen. In spite of taking all such compassionate steps they without any cogent reason did not agree to count continuity of service while he was on death bed. This action of the Management I should say not only was arbitrary but also against the principle of natural Justice and also against the welfare policy adopted by them. The case of Mahadeo Sao is to be considered as an exceptional case and considering this fact instead of rejecting the prayer of employment of the widow in the meeting it was decided to refer the matter of S.G.R.C. for consideration. The facts speaks clearly that management provided temporary employment to the wife as there was no other earning member and to save the family from starvation, This gesture of the management has exposed clearly how the family of Mahadeo Sao was in stalemate economic condition when he fell seriously ill owing to cancer. As per policy the moment Mahadeo Sao died of cancer continuity of service of the widow was stepped automatically. As per welfare policy she submitted prayer for her employment but that took was not considered by the management without assigning cogent ground.

Learned Advocate for the Management in course of hearing submitted that Management did not stop period Mahadeo Sao and for which such claim for employment of the widow could not be considered. It is known to all that for an acute cancer patient it is not possible to regain his normal state of health to undertake such strenuous job of miner. They had the scope to stop his service but did not do so for the reason best known to them and for which he was survived for a few months after detection of his ailment. When question of natural justice is involved application of standing policy cannot be followed rigidly.

6. The Tribunal, accordingly, held that the action of the Management in not providing employment to the dependant and removing her from service, was wholly unjustified.

7. It is well settled that the finding of the labour Court or Tribunal cannot be challenged under Article 226 of the Constitution for issuance of a writ of certiorari on the ground that material evidence adduced before the Tribunal or the Labour Court was insufficient or inadequate though, however, perversity of the order would warrant intervention of this Court. In this connection reference may be made to the decisions of the Supreme Court in the cases of [Syed Yakoob Vs. K.S. Radhakrishnan and Others](#), , and in P.G.I, of Medical Education & Research, Chandigarh v. Raj Kumar 2001 (2) SCC 54 : 2001 (1) JCR 302 (SC).

8. In the instant case, as noticed above, the Tribunal has recorded a conclusive finding after considering the entire evidence brought on record. Such finding of fact and conclusion arrived at by the Tribunal needs no interference by this Court.

9. This writ petition is, accordingly, dismissed.