

(2009) 08 JH CK 0025

Jharkhand High Court

Case No: None

The Management of Steel
Authority of India Ltd.

APPELLANT

Vs

The Presiding Officer, Labour
Court and General Secretary,
Bokaro Karamchari Panchayat

RESPONDENT

Date of Decision: Aug. 25, 2009

Acts Referred:

- Industrial Disputes Act, 1947 - Section 11A

Hon'ble Judges: Amareshwar Sahay, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Amareshwar Sahay, J.

Heard the parties.

2. The Petitioner - Management of Steel Authority of India Ltd., Bokaro Steel Plant, Bokaro has prayed for quashing of the Award passed by the Presiding Officer, Labour Court, Bokaro dated 20th August, 2001 in Reference Case NO. 16/88 whereby, the Labour Court, after holding the dismissal of the workman (Khalasi) G.D. Singh as illegal and thereby set aside his dismissal from service and directed the Management of Bokaro Steel Plant to reinstate him in service with 50% backwages and other consequential benefits.

3. The facts in short is that the concerned workman G.D. Singh, was appointed as a Khalasi, in Bokaro Steel Plant in the year 1982, on the ground that he was the son of a displaced person namely Doman Singh of village - Konari. Subsequently, it appears that one J.P. Singh made a complaint to the S.P., C.B.I, that some of the employees of Bokaro Steel Plant including the concerned workman G.D. Singh, got employment by falsely impersonating themselves as son of the displaced person of Bokaro Steel

Plant. Thereafter, Vigilance Department of Bokaro Steel Plant inquired into that allegations and found that the workman G.D. Singh, in order to get employment in Bokaro Steel Plant, impersonated himself as the son of a displaced person namely Doman Singh of village Konari by securing a Displaced Person's Certificate from D.P.L.R. in connivance with his father-in-law, who was already working in the Bokaro Steel Plant.

On the report of the Vigilance Department, the concerned workman G.D. Singh was chargesheeted.

4. The concerned workman submitted his written explanation, which was not found satisfactory and then an Enquiry Committee was constituted to inquire into the charge. The Enquiry Committee found the workman - G.D. Singh guilty for the charge and on the basis of the report of the Enquiry Committee, the Management of Bokaro Steel Plant dismissed the concerned workman from the service by issue of letter dated 10.09.1987.

5. Whereas, the case of the concerned workman is that he is the son of a displaced person namely Doman Singh of village - Konari and he denied having impersonating him as son of Doman Singh. He further denied the allegation of getting employment by any fraudulent means or by impersonating himself as son of Doman Singh. According to him, D.P.L.R., Government of Bihar, Bokaro, was the competent authority to issue displaced person's Certificate and he, after making inquiry, issued such Certificate in favour of the petitioner as son of the displaced person Doman Singh of village Konari thereafter, on the basis of which he was rightly appointed as a Khalasi in Bokaro Steel Plant in the year 1982.

Further, according to him, the Enquiry Committee conducted an inquiry in perfunctory manner and without any cogent and satisfactory evidence in collusion with the management, submitted wrong and baseless report against him that he was not the son of Doman Singh.

6. The concerned workman, thereafter, raised industrial dispute through his Union. The dispute was ultimately referred by the State Government for adjudication to the Labour Court which reads as follows:-

Whether termination of service of the concerned workman by the management is justified, if not, what relief he is entitled to?

7. Both the parties adduced their evidence before the Labour Court - both oral and documentary and, thereafter, the Labour Court, on the basis of materials and evidence on record, came to the conclusion that there was no cogent, legal and satisfactory evidence before the Enquiry Committee to give findings contrary to the report and certificate issued by the competent authority i.e. D.P.L.R. that the workman was not son of Doman Singh of village - Konari and, therefore, it was held that the findings given by the Enquiry Committee was baseless and perverse to the

materials available before the Committee. It was also held that no second show-cause notice was given to the workman to say anything on the report of the Enquiry Committee and on the proposed punishment going to be awarded to him, which was in violation of the principles of natural justice and curtailment of right of the workman to be heard.

8. Mr. G.M. Mishra, learned Counsel appearing for the petitioner, relying on the Judgment in the case of [Management of Usha Breco Ltd. Vs. Presiding Officer, Labour Court and Others](#), as well as Judgment of the Supreme Court in the case of [Amrit Vanaspati Co. Ltd. Vs. Khem Chand and Another](#), submitted that once the Labour Court found that the domestic enquiry held by the Management was legal and valid then in that case, the Labour Court gets a limited jurisdiction and he cannot upset the findings of facts arrived at by the domestic enquiry committee wherein, the charges against the concerned workman was found to be established. He further submitted that the Labour Court could not have reappraised the entire evidence afresh as an appellate Court rather, u/s 11A of the Industrial Disputes Act, it could have gone into the evidence to find out as to whether the punishment awarded by the Management was justified and reasonable and not to consider as to whether the charges were established or not?

9. Mr. G.M. Mishra, learned Counsel appearing for the petitioner was however fair in his submission that if the finding of the domestic inquiry is found to be perverse then certainly the Labour Court has the jurisdiction to interfere into the matter and to set aside the perverse findings arrived at by the domestic inquiry.

Mr. G.M. Mishra further submitted that allowing 50% backwages to the concerned workman after reinstatement was also not correct and at any case, he ought not have allowed 50% backwages to the concerned workman since he had not worked during that period and, therefore, on the basis of no work no pay, no backwages ought to have allowed.

10. There is no dispute so far as the proposition of law as enunciated by the Supreme Court in the case laws cited on behalf of the petitioners but at the same time, it is also a settled law that when any finding of the domestic enquiry committee is found to be not based on the materials on record, in other words, the findings are found to be perverse, then in such case, the Labour Court gets the jurisdiction to interfere with those findings of the domestic enquiry which are found to be perverse.

11. From the impugned Award, I find that the Labour Court has found that, in the domestic inquiry, much weight was given to the report submitted by the Police Station whereas, in support of the claim of the workman, there was a report of D.P.L.R. from which it appeared that the workman was the son of Doman Singh. Apart from that, Voter List was also exhibited in evidence on behalf of the workman which was published in the year 1984 showing the name of the concerned workman

with the name of this father namely Doman Singh. The evidence on record was that the concerned workman was the son of Doman Singh from his second wife. But the Enquiry Committee did not consider all those facts and evidence which were in favour of the concerned workman which established the fact that he was the son of Doman Singh, a displaced person. In such a situation, in my view, the Labour Court rightly came to the conclusion that the findings arrived at by the domestic enquiry committee was perverse and not based on the materials on record.

12. In view of the discussions and findings above. I find no illegality or infirmity in the impugned Award passed by the Labour Court. So far the payment of 50% backwages is concerned, in the facts and circumstances, I am not inclined to interfere with the same since the concerned workman was deprived of his service since last more than 20 years in spite of the fact that his lands were acquired for the purpose of establishment of Bokaro Steel Plant.

13. In this view of the matter, no case is made out for interference. Accordingly, having found no merit, this writ petition is dismissed. There shall however be no order as to costs.