

(2003) 03 JH CK 0013
Jharkhand High Court
Case No: Civil Review No. 7 of 2003

Heavy Engineering Corporation
Ltd.

APPELLANT

Vs

Surendra Kumar and Others

RESPONDENT

Date of Decision: March 4, 2003

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 47 Rule 1

Citation: (2003) 4 JCR 133

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

Bench: Division Bench

Advocate: Anil Kr. Sinha and Rajiv Ranjan, for the Appellant; M.M. Pal and Mahua Palit, for the Respondent

Final Decision: Dismissed

Judgement

S.J. Mukhopadhaya, J.

This application has been preferred by appellant-petitioner for review of Order and Judgment dated 16th July, 2002 passed in L.P.A. No. 508 of 1999(R).

2. As the petitioner lost before single Judge, in L.P.A. before this Court and also before the Supreme Court in S.L.A. (Civil) No. 21902/2002, it is not necessary to discuss all the facts, except the relevant one as mentioned hereunder ;

The petitioner-Heavy Engineering Corporation Limited (H.E.C. for short) and many other Companies having their factory failed to comply with mandatory provisions of Factories Act and Rules, the Patna High Court in C.W.J.C. No. 6173/92 (R) noticed that Safety Officers were not appointed in many of the factories. The Court vide order dated 18th March, 1993 directed the petitioner H.E.C. to appoint Safety Officers in terms of Rule 62(b) of the Bihar Factories Rules.

Thereafter, in pursuance of advertisement published by petitioner-H.E.C., after due interview and selection following the procedures of regular appointment, the writ petitioner- respondent Nos. 1 and 2 herein were appointed on 29th December, 1993. However, their appointments were shown temporary-ad hoc in nature. It was extended from time to time. The last extension was given on 15th January, 97 whereinafter the services of writ petitioners (respondent Nos. 1 and 2) were terminated w.e.f. 16th July, 1997 without assigning any reason.

The learned single Judge by its order and Judgment dated 26th October, 1999 in C.W.J.C. No. 3427 of 1998 (R) held the termination order illegal and they are entitled to continue in the services of petitioner-H.E.C. as Safety Officer.

The aforesaid judgment of learned single Judge was challenged by the petitioner in connected L.P.A. No. 508/99(R). The appellate Court vide its Judgment dated 16th (July, 2002 while referred to Sub-rule (3) of Rule 62 (B) of the Bihar Factory Rules, upheld the Judgment passed by the learned single Judge and held the termination order illegal, the writ petitioners having appointed after following all the procedures of regular appointment and the appellant-H.E.C. being bound to have Safety Officers for its Factories.

The appellant-petitioner, thereafter, moved before the Supreme Court in S.L.A. (Civil) No. 21902/2002. It was permitted to be withdrawn on 13th December, 2002.

3. According to writ petitioners-respondent Nos. 1 & 2, the aforesaid S.L.A. (Civil) No. 21902/02 was heard at length on 29th November, 2002 and 13th December, 2002 and when the Hon"ble Supreme Court was not inclined to interfere with the Judgment passed by this Court, prayer was made to withdraw the S.L.A. and accordingly it was permitted to be withdrawn as dismissed.

4. The aforesaid fact has not been disputed by the petitioner- H.E.C. In the aforesaid circumstances, in absence of any leave obtained from the Hon"ble Supreme Court to move before this Court for review of Judgment in question, after dismissal as withdrawn of the appeal from the Hon"ble Supreme Court, it is not desirable to encourage any party, including the petitioner-H.E.C. to re-agitate the matter again by filing a petition for review.

5. Counsel for the petitioner placed reliance on facts mentioned at paragraph-23 to the Civil review application. Counsel submitted that it could not be brought to the notice of the Court the actual number of Safety Officers working, manpower strength and the requirement of Safety Officers as per law. However, such submission cannot be accepted as no such pleading was made, nor facts were placed by the appeallant-petitioner either before the learned single Judge or before the appellate Court in L.P.A. No. 508 of 1999 (R).

6. In the circumstances, the Supreme Court having not interfered with the impugned order dated 16th July, 2002 passed in L.P.A. No. 508 of 1999 (R) and as no

review application is maintainable on the ground that certain facts were not pleaded by the appellant-petitioner, this Court is not inclined to entertain the review application.

7. Accordingly, the review application is dismissed.