

(2008) 07 JH CK 0042
Jharkhand High Court
Case No: None

Yasin Ansari

APPELLANT

Vs

Management of Bokaro Steel
Plant

RESPONDENT

Date of Decision: July 15, 2008

Acts Referred:

- Industrial Disputes Act, 1947 - Section 17B

Citation: (2008) 3 JCR 531

Hon'ble Judges: Gyan Sudha Mishra, C.J; M.Y. Eqbal, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

1. This appeal has been filed against the order dated 1.5.2007 passed by the learned single Judge in WP(L) No. 6351/2006 by which the application bearing LA. No. 599/2007 was rejected which was the application filed by the appellant-workman claiming wages u/s 17-B of the Industrial Disputes Act on the basis of the salary last drawn by him as he had succeeded before the Labour Court which had passed award in his favour for his reinstatement with full back wages. Thereafter the respondent-management had filed a writ petition before the learned single Judge which has been admitted and is pending consideration. During pendency of the writ petition, the appellant-workman filed an application u/s 17-B of the Industrial Disputes Act claiming wages on the basis of the salary last drawn by him. The learned single Judge was pleased to reject the application claiming wages on 1.5.2007 on the ground that the appellant had reached the age of superannuation in 2006 itself and as the award of reinstatement could not be implemented, he could not be granted back wages also u/s 17-B of the Act.

2. The counsel for the appellant has preferred this appeal against the aforesaid order passed by the learned single Judge and has contended that the age of

superannuation had been enhanced from 58 to 60 years meaning thereby that if the award had been implemented, then the appellant would have been in service on the date of the order as he reached the age of superannuation only in the month of April, 2008.

3. From the aforesaid argument an obvious conclusion that can be safely drawn is that the appellant has succeeded before the Labour Court as an award of reinstatement has been passed in his favour and even if it has not been Implemented he is clearly entitled to back wages u/s 17-B of the Act since the management has assailed the award before the learned single Judge by filing the writ petition it required no clarification that the purpose of Section 17-B of the Act is clearly to protect the workman during the pendency of the litigation."

4. In this case the workman had succeeded and got the award in his favour and although as on date, he has reached the age of superannuation the fact remains that on 1.5.2007 when the learned single Judge passed the order, he had not reached the age of superannuation as the age of superannuation had been increased from 58 to 60 years. The enhanced age of superannuation thus, can be construed to have gone in favour of the appellant-workman for if the award had been implemented, he would have been in service and that makes him entitled for wages last drawn by him till the age of superannuation.

5. We are, therefore, of the view that the appellant is entitled to wages from the date of the application filed by him u/s 17-B of the Act till the age of his superannuation. Hence, we direct the respondent-management to calculate the wages payable to the appellant on the basis of the salary last drawn by him and pay the same within a period of six weeks from the date of receipt of this order.

6. This appeal, in so far as it is directed against the order passed in I.A. No. 599/2007, it shall be treated as allowed but, we clarify that the order passed in I.A. No. 3532/2006 which has been passed by the learned single Judge is maintained by this Court also.

7. With this observation and direction, the appeal stands disposed of.