

(2013) 07 JH CK 0069

Jharkhand High Court

Case No: Writ Petition (L) No. 3533 of 2011 and W.P. (L) No. 4307 of 2006

The Management of
Damodar Valley
Corporation and M/s.
Damodar Valley
Corporation

APPELLANT

Vs

Shri Basudeo Prasad
Verma and Others and
Their Workmen and
Another

RESPONDENT

Date of Decision: July 24, 2013

Citation: (2013) 139 FLR 784

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: R.S. Mazumdar, S.K. Ughal, Tapas Kabiraj and Rohit Roy, for the Appellant; Satish Bakshi and Nipun Bakshi, for the Respondent

Judgement

Aparesh Kumar Singh, J.

I.A. No. 5131/2013 in WPL 4307/2006

1. The instant I.A. has been filed for correction of inadvertent error made by the counsel for the petitioner. According to the learned counsel for the petitioner, there has been inadvertent error in the vakalatnama filed on behalf of the learned counsel for the petitioner Mr. Rohit Roy and Mr. Rajesh Kumar on 22nd August 2012 in the sense that in the body of vakalatnama, it has been stated wrongly that this vakalatnama has been filed on behalf of the respondent no. 3 whereas they are appearing for the petitioner-Management.

2. Counsel for the respondent workmen do not object to the same.

3. Accordingly, counsel for the petitioner Mr. Rohit Roy is permitted to correct the said error in his own handwriting during the course of the day, in red ink, in the said vakalatnama.

I.A. stands disposed of.

I.A. No. 2035/2013 in WPL 3533/2011

The instant application has been preferred by some of the workmen for seeking vacation of the stay granted by order dated 25th February 2013 in the present writ application wherein the impugned order dated 30th March 2011 passed in MJ. Case No. 6/2010 has been challenged by the writ petitioner Management.

4. The workmen have appeared on notice and the interim order was passed on the first date of admission. The contention of the workmen is that the order impugned in the present writ application has been passed in the execution case instituted by the workmen u/s 33C(2) of the Industrial Disputes Act against the writ petitioner-Management being MJ. Case No. 6/2010 for execution of an Award dated 31st July 2004 passed in the Reference Case No. 8/1996 by the Industrial Tribunal, Ranchi. It is submitted that the said Award has already been challenged before this Court vide WPL No. 4307/06 by the Management which has been admitted on 11th September 2007, but no stay was granted in respect of the Award in question by this Court.

5. The writ petitioner-Management throughout contested the M.J. Case No. 6/2010 on merits which was decided by the Presiding Officer, Labour Court-cum-Authority u/s 33C(2) of the Industrial Disputes Act and finally, by the impugned order, they have been directed to pay the amount so computed within the period of three months to each of the applicants in execution of the original Award. In the original Award passed in the Reference Case No. 8/1996, it was held that the Gauge Readers working in DVC Soil Conservation Department are entitled to equal pay and other facilities as given to the Gauge Readers working at DVC, Maithon from the date of notification of the reference.

6. It is submitted that the workmen in question are getting paltry sum on account of daily wage and the ultimate effect in terms of the money payable to the individual workman would be approximately @ Rs. 2,500/- per month. In such circumstances, the petitioner-Management should not be allowed to discriminate vis-à-vis the similarly placed workmen like that of DVC at Maithon, so far as payment of wages are concerned in view of the original Award passed by the Industrial Tribunal, Ranchi which has been executed through the impugned order in the present writ application.

7. Counsel for the petitioner-Management, on the other hand, submits that the whole issue relating to the parity status of these workmen with those posted at DVC, Maithon, are itself a subject matter of dispute which has been wrongly decided by the learned Tribunal in the original Reference Case. Pending adjudication of the challenge to the said Award, the execution of the said Award should remain stayed, otherwise it would be

difficult for the Management to recover money from the workmen in question, if ultimately they succeed.

8. I have heard counsel for the parties at some length and gone through the impugned order which has been passed in execution of the original Award dated 21st July 2004.

9. The Award in original reference case though, was challenged in WPL No. 4307/2006, but no stay has been granted by this court when it was admitted on 11th September 2007. Thereafter, the workmen instituted a complaint u/s 33C(2) of the Industrial Disputes Act before the Labour Court, Hazaribagh for execution being M.J. Case No. 6/2010. The Management throughout contested the case before the Labour Court in the said M.J. Case on merits and once the order for execution of the Award has been passed, it has approached this Court by challenging the final order passed therein.

10. All along, the Management never considered it proper to seek any stay of the original Award dated 21st July 2004 passed in Reference Case No. 8/1996 in the pending writ petition vide WPL No. 4307/2006. What has been ordered in the original Award is pay parity to the workmen who claim to be working for more than 20 years by now under the Management of Damodar Valley Corporation and have been granted pay parity with those workmen who are working at DVC, Maithon. In such circumstances, the plea of the Management cannot be accepted. The execution case has been decided after hearing the Management as well as the workmen and it only directed payment of computed amount to the individual workman as per the original Award passed in the reference case.

In such circumstances, the interim order dated 25th February 2013 is vacated.

I.A. stands disposed of.

I.A. No. 5130/2013 in WPL No. 4307/2006

This application has been filed on behalf of the petitioner-Management seeking stay of the Award dated 21st July 2004 passed in Reference Case No. 8/1996 by the Industrial Tribunal, Ranchi.

For the aforesaid reasons, the instant I.A. is rejected.

WPL Nos. 3533/2011 and 4307/2006

Since both the writ petitions have been tagged together and have already been admitted for hearing, let the matter be placed under the heading for hearing at its own course.