

(2009) 07 JH CK 0049

Jharkhand High Court

Case No: None

Sanjay Kumar Gupta

APPELLANT

Vs

The Steel Authority of India Ltd.
and Another

RESPONDENT

Date of Decision: July 2, 2009

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: Dhirubhai Naranbhai Patel, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

D.N. Patel, J.

The present petition has been preferred against a judgment and order passed by the District Judge, Bokaro, Dated 15th January, 2008 whereby Misc. Appeal preferred by the present petitioner bearing No. 5 of 2006 has been dismissed and thereby an order passed by Estate Officer, Bokaro Steel City, Bokaro in A/E Case No. 26 of 2004, dated 4th January, 2005 was confirmed. Thus, the order passed by Estate Officer, Bokaro Steel City to the effect that petitioner has to hand over peaceful and vacant possession of the premises in question to the respondent has been held as valid one by the impugned order passed by District Judge, Bokaro vide order dated 15th January, 2008. Against this order the present Writ Petition has been preferred under Article 227 of the Constitution of India.

2. I have heard learned Counsel for the petitioner who has submitted that petitioner has already raised industrial dispute u/s 10 of the Industrial Disputes Act, 1948 against his dismissal from the services and, therefore, respondents cannot insist for vacating residential quarter allotted by respondents. Labour Court has not yet decided the Reference Case No. 2 of 2009, u/s 10 of the Industrial Disputes Act. Reference Case No. 2 of 2009 is pending before the concerned Labour Court and, therefore, the order passed by the District Judge, Bokaro deserves to be quashed

and set aside.

3. I have heard learned Counsel for the respondents who has submitted that because of the mis-conduct committed by the present petitioner, a charge-sheet was issued, inquiry was conducted and ultimately the petitioner was dismissed from the services with effect from 12th June, 2003 and, therefore, petitioner ought to have vacated residential quarter from 11th of July, 2003 and he has unauthorisedly and illegally retained the quarter. Respondents are in need of residential quarters for other employees who are regularly employed and working in the premises. No fault lies on the part of the respondents for pendency of the case. If the petitioner succeeds in the reference, looking to the final order passed in a Reference Case No. 2 of 2009, all the benefits will be given to the petitioner as per order in Reference Case. But, as on today, there is no stay against the dismissal order. Employer-employee relationship has come to an end from June, 2003. In view of these facts it is correctly appreciated by the District Judge, Bokaro that quarter has been unauthorisedly occupied by the petitioner since approximately 72 (seventy-two) months. No error has been committed by the District Judge by passing impugned order in Misc. Appeal No. 5 of 2006, dated 15th of January, 2008 and similarly no error has been committed by the Estate Officer, Bokaro Steel City, Bokaro in A/E Case No. 26 of 2004 dated 4th of January, 2005.

4. I have heard learned Counsel for both the sides and looking to the facts and circumstances of the case, I see no reason to entertain this matter for the following facts & reasons:

I. Petitioner was serving with the respondents. As he has committed mis-conduct, inquiry was held and necessary procedure was followed and complied with, as alleged by the respondents and ultimately upon holding inquiry that petitioner was dismissed from the services of the respondents with effect from 12th of June, 2003.

II. Thus, it appears that employer-employee relationship has brought to an end from June, 2003. Residential quarter which was allotted by the employer ought to have been vacated by the petitioner after 12th of July, 2003 No stay has been granted by any Court, Tribunal or Authority.

III. Looking to the facts, it appears that the present petitioner-has been unauthorisedly occupying the residential quarter since last 72 months.

IV. It is submitted by the learned Counsel for the petitioner that a Reference Case No. 2 of 2009 is pending before a competent Labour Court and, therefore, petitioner may be allowed to occupy the residential quarter. This contention cannot be accepted by this Court firstly, for the reason that there is no stay against the dismissal order dated 12th of June, 2003 by any Court, Tribunal or Authority. Secondly, for the reason that learned Counsel for the respondents has submitted that looking to the final order passed in Reference Case No. 2 of 2009, all benefits will be extended to the petitioner, if so, directed by the competent final Court, but,

as on today as per the submission, of the learned Counsel for the respondents, respondents are in dire need of residential quarters for other employees who are working with the respondents and seizing with the respondent-company. There is an assertion by petitioner that there all chances of success by the employee in n Terence case, on that possibility, the quarter should be allowed to be retained. This contention is not accepted by this Court. Hundred possibilities cannot be equated with one truth. Had any order passed in favour of the petitioner by any Court, the effect will be given by the respondents, including for quarter.

5. In view of these facts no error has been committed by the District Judge, Bokaro in dismissing Misc. Appeal No. 5 of 2006, much less there is an error apparent on the fact of record. On the contrary, the orders passed by both the authorities below i.e. Estate Officer, Bokaro Steel City in A/E Case No. 26 of 2004 dated 4th of January, 2005 as well as by the order passed by the District Judge, Bokaro, dated 15th January, 2008 in Misc. Appeal No. 5 of 2006 are absolutely true, correct, legal and in consonance with the facts of the case.

6. There is no substance in the writ petition. Therefore, the same is hereby, dismissed.

7. In view of final disposal of writ petition, Interlocutory Application also stands disposed of.