
(2012) 01 DEL CK 0546
In the Delhi High Court
Case No : EX.P. 133 of 2011

Amar Singh Sewara

APPELLANT

Vs

Regional Director, RBI

RESPONDENT

Date of Decision : 09-01-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B, 33C(2)

Citation : (2012) 01 DEL CK 0546

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : H.S. Parihar with Mr. K.S. Parihar, for the Respondent

Final Decision : Dismissed

Judgement

Justice S. Muralidhar

1. The prayer in this petition under Order 21 CPC is for the execution of an Award dated 30th July 2002 (published in the Gazette on 1st August 2002) passed by the Central Government Industrial Tribunal ("CGIT") in Industrial Dispute No. 29 of 2000. It may be noticed at the outset that the Petitioner has erroneously described himself as "Decree Holder" whereas the Award in question is one passed by the CGIT under the Industrial Disputes Act, 1947 ("ID Act"). For enforcement of an Award under the ID Act there is a separate provision under the ID Act. In any event, for the reasons set out hereafter, the prayer is misconceived since the said Award no longer exists in the eye of law.

2. This Court has heard the submissions of Mr. Amar Singh Sewara, the Petitioner who appears in person and has also considered his written arguments.

3. In Award dated 30th July 2002, published on 1st August 2002, it was held that an order passed by the Respondent Reserve Bank of India ("RBI") holding the services of the Petitioner, who was working as Clerk Grade II, as having been voluntarily vacated with effect from 9th September 1978, was not justified, and legal. The said order was accordingly set aside and consequential benefits were

granted to the Petitioner.

4. The said Award was challenged by the RBI by filing W.P. (C) No. 8124 of 2002 in this Court. By an order 17th December 2002 the operation of the Award was stayed. The interim order was confirmed by a subsequent order dated 8th August 2003. On that date this Court further directed that in terms of Section 17B of the ID Act the arrears from the date of the Award up-to-date shall be paid to the Petitioner within four weeks.

5. Ultimately W.P. (C) No. 8124 of 2002 came to be disposed of on 16th August 2004 by a detailed judgment of a learned Single Judge of this Court which held that the Award of the CGIT was not sustainable in law and accordingly set it aside. This Court further directed RBI to pay arrears to the Petitioner u/s 17B of the ID Act.

6. Contending that the aforesaid judgment was not complied with by the RBI, the Petitioner filed Contempt Case (C) No. 106 of 2005 in this Court. The said contempt petition was disposed of on 12th August 2005 by the following order:

Cont.Cas (C) No. 106/2005

1. Petitioner has initiated the present contempt petition alleging willful and intentional disobedience of the order dated 16th August 2004 passed by Madan B. Lokur, J. in CW. No. 8124 of 2002. Order directs that Respondent would determine the minimum wages due to the Petitioner for the post of Coin Note Examiner as on the date of Award and till date of the order within four weeks and pay the same to the Petitioner.

2. On facts, Madan B. Lokur, J. noted the Petitioner had rendered service only for a period of 40 days and had approached the Labour Court after nearly 18 years.

3. The short issue for determination in the present proceedings is whether the Respondent has paid amount to the Petitioner in terms of Order dated 6th August 2004.

4. Today, in Court a cheque in the sum of Rs. 71,373.85 has been handed over to the Petitioner. Earlier on, Petitioner was paid a sum of Rs. 98,814/-.

5. Shri R.N. Trivedi, learned Senior Advocate appearing for the Respondent submits that the earlier cheque was towards minimum wages and the amount being paid today is towards allowance. Counsel states that the cheque could not be sent to the Petitioner for the reason he has given his address as C/o Post Master, Narnaul, District Mahindergarh (Haryana). Petitioner who appears in person states that he must be paid wages as per settlement between the Union and the Reserve Bank of India.

6. I am afraid, order dated 16th August 2004 requires the Petitioner to be paid minimum wages for the post of Coin Note Examiner. Further, direction is that this minimum wages would be the one paid on the date of the Award.

7. Award is dated 30th July 2002 in ID No. 29 of 2002.

8. Petitioner has not been able to show, as to in what manner the payments paid to him are not the minimum wages in respect of the post of Chief Coin Note Examiner.

9. Be that as it may, I do not find any deliberate and intentional violation of the order dated 16th August 2004 in CW. No. 8124 of 2002.

10. Notice of contempt is discharged. Petition dismissed.

7. The Petitioner's appeal, LPA No. 847 of 2006, against the judgment dated 16th August 2004 of the learned Single Judge in W.P. (C) No. 8124 of 2002, was disposed of on 22nd August 2005 by the Division Bench of this Court by holding that the Petitioner was entitled to Rs. 6,635.45 per month as minimum wages for the period 30th July 2002 to 16th August 2004. The balance amount in terms of the said order was directed to be paid by RBI to the Petitioner within a period of three months failing which the RBI would be liable to pay interest @ 12% per annum.

8. The Petitioner then filed SLP (C) No. 1656 of 2006 which came to be dismissed by the Supreme Court on 26th February 2006. He filed Review Petition (C) No. 248 of 2006 which too was dismissed by the Supreme Court on 2nd March 2006. With this the judgment dated 16th August 2004 of this Court setting aside the Award dated 30th July 2002 of the CGIT, became final. Since as of date there is no Award dated 30th July 2002 in the eye of law, the present petition seeking its execution/enforcement is misconceived.

9. However, to complete the sequence of events it may be noticed that the Petitioner again filed Contempt Case (C) No. 1092 of 2006 in this Court complaining of non-compliance by the RBI with the order dated 22nd August 2005 of the Division Bench in LPA No. 847 of 2004. A detailed order was passed by this Court on 21st May 2007 dismissing the said contempt petition. The Court was satisfied that directions issued by the Division Bench in its order dated 22nd August 2005 had been complied with by the RBI.

10. Thereafter, the Petitioner approached the Delhi Legal Services Authority ("DLSA"). At the request of the DLSA, a retired Additional District & Sessions Judge examined the papers and recorded in his note dated 5th March 2008 that the request of the Petitioner for providing legal aid for implementation of the Award, could not be accepted.

11. The Petitioner next approached the National Commission for Scheduled Tribes which by an order dated 10th November 2008 concluded that the Petitioner's claim for reinstatement in service under the RBI was without merit. The plea of discrimination on caste grounds was also held to be unfounded.

12. The Petitioner then filed another Contempt Case (C) No. 686 of 2008 in this Court which was dismissed on 30th October 2009 by a speaking order. The

appeal against the said order being Contempt Appeal (C) No. 20 of 2009 was dismissed by the Division Bench on 16th February 2010.

13. The Petitioner next approached the CGIT with a claim u/s 33C (2) of the ID Act seeking the computation of his benefits in terms of the Award dated 30th July 2002. A detailed order was passed by the CGIT on 31st May 2010 dismissing his claim petition. Thereafter, the present execution petition was filed on 4th May 2011.

14. The above narration of facts shows that the Award which the Petitioner is seeking to execute was set aside by this Court on 16th August 2004. The only relief granted to the Petitioner was u/s 17B of the ID Act. The said relief was partly modified by the Division Bench by its judgment 22nd August 2005 in LPA No. 847 of 2004 which became final with the dismissal of the Petitioner's SLP as well as review petition by the Supreme Court. The three contempt petitions filed by the Petitioner in this Court were dismissed. It has been recorded that the order dated 22nd August 2005 of the Division Bench in LPA No. 847 of 2004 stands fully satisfied. This has been reiterated by the CGIT in its order dated 31st May 2010 dismissing the Petitioner's claim petition u/s 33C (2) of the ID Act seeking the same relief. The present petition is misconceived and an abuse of the process of law. It is dismissed as such.