

(2015) 09 JH CK 0062
In the Jharkhand High Court
Case No : WP(L) No. 2838 of 2014

Arvind Kumar Srivastava

APPELLANT

Vs

Management of Head Post Office, Bistupur, Jamshedpur and
Others

RESPONDENT

Date of Decision : 07-09-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 11, 11(4)

Citation : (2015) 4 JLJR 44

Hon'ble Judges : S. Chandrashekhar, J.

Bench : Single Bench

Advocate : K.K. Singh and D.K. Karmakar, for the Appellant; Pratyush Kumar, for the Respondent

Final Decision : Allowed

Judgement

S. Chandrashekhar, J.—Aggrieved by order dated 19.3.2014 in Reference Case No. 16 of 2006 whereby, the application dated 30.10.2013 seeking recall and re-examination of witness namely, Arvind Kumar Srivastava has been rejected, the present writ petition has been filed. A counter-affidavit dated 15.7.2015 has been filed by the respondents and therefore, the writ petition is being disposed of at the admission stage itself.

2. The brief facts of the case are that, the petitioner claims that he was engaged as Casual Labour on 12.9.1986 and thereafter, he was engaged intermittently in different Group-D post as casual labour. He continued to work till 14.3.1987 and again from 16.9.1992 to 14.9.1993. The petitioner has further asserted that on the orders of the Head Post Office, he was again engaged from 20.6.2002 to 4.8.2003 however, since, 5.8.2003 he was stopped from attending duty. Consequently, an industrial dispute was raised which, on failure of the conciliation between the parties, was referred to the appropriate Government and the appropriate Government referred the dispute for adjudication vide order dated 22.5.2006 in Reference Case No. 16 of 2006. After the parties closed their

evidence, application dated 30.10.2013 was filed on behalf of the workman for his re-examination. The said application has been dismissed on 19.3.2014. Aggrieved, the petitioner has approached this Court.

3. Heard the learned counsel for the parties.

4. The learned counsel for the petitioner submits that, due to lack of knowledge letters dated 14.7.1988 and 18.9.2003 as well as original postal registration slip could not be brought on record and for bringing those documents on record the petitioner filed application seeking recall of the witness. Referring to various provisions under the Industrial Disputes Act, 1947, the learned counsel for the petitioner submits that, the main object behind the Industrial Disputes Act, 1947 is to ensure industrial peace and harmony amongst the workman and the management. The Industrial Tribunal is not strictly guided by the provisions of the Code of Civil Procedure and the Evidence Act though, in certain matters the procedure prescribed under the Code is followed by the Tribunal.

5. Per contra, Mr. Pratyush Kumar, the learned counsel for the respondents submits that, the respondent-Office of Postmaster is not an industry under the Industrial Disputes Act, 1947. The documents which were appended with application dated 30.10.2013 are not relevant for adjudicating the issue raised before the Industrial Tribunal. It is further submitted that, at the fag end of the trial, to fill up lacuna in his case, application dated 30.10.2013 was filed by the petitioner.

6. The provisions under the Industrial Disputes Act, 1947 indicate that the Tribunal, Labour Court and National Tribunals have been vested with powers to grant appropriate relief in cases of discharge or dismissal of a workman. Section 11 provides that the Labour Court, Tribunal or National Tribunal shall adopt its own procedure. Section 11(4) further provides that the Labour Court, Tribunal or National Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. The workman has alleged illegal termination of his engagement and through application dated 14.7.1988 and application dated 18.9.2003 the workman intended to assert that he has written letters to Senior Postmaster, Jamshedpur. In support of the plea that he has written letters to Senior Postmaster, Jamshedpur, the petitioner intends to bring on record original postal registration slip. Whether the applications dated 14.7.1988 and 18.9.2003 and also the postal registration slip are relevant for adjudicating the claim raised by the petitioner or not, is matter which can be decided only at the final hearing. At this stage, the petitioner intends to bring copies of applications dated 14.7.1988 and 18.9.2003 and the original postal registration slip on record for which, recall of the witness should have been permitted by the Tribunal.

7. Considering the above facts, order dated 19.3.2014 in Reference Case No. 16 of 2006 is hereby set aside. The witness shall be recalled however, only for the purpose of marking the documents mentioned in the list of documents dated 10.5.2013. The respondent-management shall thereafter, be granted opportunity

to cross-examine the witness. The parties shall appear before the Tribunal on 30.9.2015. The writ petition stands allowed in the above terms.