
(2010) 03 JH CK 0004
In the Jharkhand High Court

Bharat Refractories Ltd.

APPELLANT

Vs

Basiruddin Ansari and Others

RESPONDENT

Date of Decision : 17-03-2010

Acts Referred:

Citation : (2010) 03 JH CK 0004

Hon'ble Judges : Gyan Sudha Mishra, C.J.; Rakesh Ranjan Prasad, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal has been preferred by the appellant, M/s. Bharat Refractories Ltd., against the order dated 4.8.2009 passed by the learned Single Judge in a batch of review petitions, which were directed against the judgment and order passed by the learned Single Judge in W. P (S) No. 4125/2004 on 9.5.2006 along with a batch of several other writ petitions, directing the respondent/appellant herein to determine the compensation payable to the petitioners/respondents herein in terms of Clause (G)(ii) read with (H)(i) of the 2002 Scheme and pay the compensation within a period of three months from the date of the order. The compensation was ordered to be paid in view of the Voluntary Retirement Scheme 2002.

2. The appellant company filed review petitions against the impugned judgment and order and raised the question that the word, "maximum" given out in the Hindi version has not been taken care of by the learned Single Judge in the impugned judgment and order. The learned Single Judge was pleased to dismiss the writ petition recording therein that the compensation will be subject to the amount not exceeding the salary/wage on balance period of service left. The learned Single Judge finally was pleased to hold that there was no ground for review of the impugned judgment and order.

3. This appeal has been preferred by the appellant-company against the order of the learned Single Judge dated 4.8.2009 by which the review referred to

hereinbefore was dismissed.

4. Learned Counsel for the appellant endeavoured hard to impress upon this Court that the learned Single Judge had committed an error in the impugned judgment as the word, "maximum" has not been correctly interpreted. But we have noticed that the impugned judgment of the learned Single Judge, against which the review was sought, has not stated or observed anything in so far as the maximum amount of compensation was to be paid to the employees seeking voluntary retirement. The impugned order passed by the learned Single Judge, which was sought to be reviewed, merely held that the respondent-employees seeking voluntary retirement would be entitled to the compensation as per the Scheme of 2002, vide Clause (G)(ii) read with (H)(i) of the 2002 Scheme and pay the compensation within a period of three months from the date of the order. Thus, the learned Single Judge has not made any observation in regard to the amount that was to be calculated and merely directed that the payment be made as per the Scheme. It is, thus, obvious that the payment had to be made to the respondent-employees only as per the Scheme and the question as to how much amount was payable was not an issue in the writ petition and only the direction was issued to pay compensation.

5. Therefore, the appellant-company seems to have unnecessarily filed a review petition before the learned Single Judge raising a controversy that the word, "maximum" has not been addressed by the learned Single Judge. In fact, the words, "maximum" and "minimum" were not even touched upon by the learned Single Judge. The learned Single Judge had merely observed that the payment be made as per the Scheme of 2002 referred to hereinbefore. Thus, the appellant-company obviously would be paying compensation as per the Scheme of 2002. What exactly is the quantum of compensation, would be governed by the Scheme of 2002.

6. In our view, the appellant-company has unnecessarily resorted to this tactic of not making payment of compensation to the employees seeking voluntary retirement by raising an unnecessary controversy and this ploy adopted by the appellant-company is deprecated and the review appears to have been filed by the appellant clearly with an oblique motive in order to defer making of payment, which we do not appreciate. The appellant-company having been merely directed to make payment as per the Scheme of 2002, it was certainly not open for the appellant-company to unnecessarily raise a controversy out of the blue as to what would be the interpretation of the word, "maximum". Any provision which is made under the Scheme, obviously, has to be carried out by the appellant-company for calculating the payment of compensation. Thus, the appeal has no substance and under the circumstance, is dismissed with a cost of Rs. 5,000/- (Rs. five thousand only), to be paid by the appellant-company.