
(2003) 07 JH CK 0070
In the Jharkhand High Court
Case No : CWJC No. 1431 of 1995 (R)

Damodar Valley Corporation

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 29-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 49

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.M. Pal, for the Appellant; Vinod Poddar and A. Sarkar, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Petitioner who is the management of Damodar Valley Corporation prayed for quashing the Award passed by the Presiding Officer, Labour Court, Bokaro Steel City, Bokaro in Reference Case No. 22 of 1989, whereby he has answered the reference in favour of the workman holding that the termination of the services of the workman from 21.2.1984 was wholly unjustified and directed for reinstatement and also for payment of arrears of wages and current wages.

2. It appears that by notification dated 25.2.1987 the following disputes were referred to the labour Court for adjudication :

(i) Whether the retrenchment of Sri Binay Kuinar, Technician Gr. III from 21.2.1984 is justified/ If not, whether he is entitled to reinstatement or/any other reliei?

(ii) Whether the non-payment of wages of Sri Binay Kumar for the period from 24.2.1981 to 21.2.1984 is justified? If not, whether he is entitled to get the wages of that period.

3. From the Award, it appears that the labour Court answering both the terms of

dispute in favour of workman held that the petitioner is entitled to reinstatement on the post of technician Grade III and also entitled to wages from 24.2.1981 to 21.2.1984 with 10% interest. However, it is held that the workman will not be entitled to get any salary for the period after 21.2.1984.

4. From the case of the management, it appears that the relationship between the employer and employee (employer and workman) was denied and disputed and it was contended by the management that since the concerned workman cannot be deemed to be a workman within the meaning of Industrial Disputes Act, the reference itself is illegal and unjustified. It was the case of the management that the workman was never engaged by the management to work as casual employee rather his service was taken time to time on temporary basis. On this issue evidence was adduced and the Court below recorded finding of fact. From the own documents of the management which have been annexed as Annexure 8 series to the writ application it appears that petitioner was taken into service on 24.2.1981 and since then repeated correspondences were made for payment of his outstanding dues and for approval of his appointment.

Be that as it may, the finding recorded by labour Court is based on finding of fact and therefore this Court cannot re-appreciate the entire evidence for coming to a different conclusion.

5. Having regard to the admitted fact that the workman continuously worked from 24.2.1981, his retrenchment was not justified. It is also not in dispute that petitioner was not paid salary/wages from 24.2.1981 to 21.2.1984. The labour Court has therefore rightly held that the Management is liable to pay dues to the workman together with 10 % interest. For the aforesaid reasons, the Award needs no interference by this Court. This writ application is dismissed.

6. The Award must be complied with by the petitioner/management within a period of 30 days. It is made clear that if the wages/salary due to the workman, awarded by the labour Court is not paid or remitted within 30 days, the same will carry interest at the rate of 12% per annum from the date of receipt of copy of this order.