
(2017) 06 JH CK 0025
In the Jharkhand High Court
Case No : 56 of 2016

INDRADEO PANDEY

APPELLANT

Vs

UNION OF INDIA & ORS.

RESPONDENT

Date of Decision : 19-06-2017

Acts Referred:

Industrial Disputes Act, 1947, Section 10(2A)
(1) - Reference of disputes to Boards, Courts or Tribunals

Citation : (2017) 06 JH CK 0025

Hon'ble Judges : Aparesh Kumar Singh

Bench : SINGLE BENCH

Advocate : A. Allam, Nehala Sharmin, Kaustav Panda

Final Decision : Allowed

Judgement

1. Heard learned counsel for the parties.

2. The impugned award dated 26.9.2014 (Annexure-5) passed in Reference Case No. 1 of 2013, challenged by both Management of the Bank and the Workman for their own reasons reads as under:-

" By order No. L-12012/24/2012-IR (B-H) dated 23/11/2012 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal: SCHEDULE "Whether the action of the management of Bank of India in terminating the Services of Shri Parameshwar Das w.e.f. 15.4.2010, is legal and justified? Whether the demand of Shri Das for his reinstatement in Bank service with full back wages and continuity of service with all benefits is just and proper? What relief the concerned workman is entitled to?" 2. The case is received from the Ministry of Labour on 06.02.2013. After notice both parties appeared. The workman files their written statement on 02.05.2013. But the Management never appeared inspite of regd. Notice being sent. Thereafter the

case is heard as ex-parte, workman files their document which is marked as W-1, & W-10. 3. The short point that is involved in this case whether the workman is to be regularized as Messenger / daily wager in the Bank or not. The claim of the workman is that they were engaged by the Bank Manager and they were rendering service continuously but the Bank Management without any reason asked them not to come to Bank for work. 4. In spite of valid notice the Bank Management did not appear nor filed any written statement. The workman files documents to show that he worked as casual workman. There is no reason to disbelieve the document of the workman which has been given on bank pad. 5. Considering the facts and circumstances of the case, I hold that at this situation it is held that the Bank Management to accept them as casual employee/ daily wager and they be engaged in the Bank as and when required by the Bank Management. This is my award".

3. Petitioner- Management of Bank in W.P.(L)No. 56 of 2016 have assailed the impugned award on the ground that it is wholly cryptic and non- speaking rendered without any notice to the petitioner management. Petitioner- Workman in W.P.(L) No. 5049 of 2015 is aggrieved by the tenor of the operating directions contained at para 5 of the impugned award where the Management of the Bank has been directed to engage him as and when required by the Management. Learned counsel for the workman has not been able to dispel the infirmity apparent on the face of the award that it does not contain any discussion what so ever on the material evidence produced by the workman to arrive at such finding.

4. The adjudicatory authority enshrined with judicial power is required to accord reasons after due application of mind to the pleadings and material evidences adduced by the parties in any such proceedings. The award impugned is like inscrutable face of the sphinx. The learned Tribunal exercising judicial power under the Industrial Disputes Act, 1947 was under the mandate of law to render reasoned award even if one of the parties may not have adduced any evidence. Learned Tribunal had to scrutinize the evidences and the pleadings in order to come to a conclusion whether the demand of reinstatement by the workman had to be answered in his favour, on the basis of settled principles of law as laid down by the Hon"ble Apex Court and this Court from time to time.

5. Reasons are the heartbeat and soul of an order, in the absence of which, the Superior Judicial Forum is inhibited in testing the legality and correctness of the order impugned. It is also necessary to ensure transparency in the functioning of any judicial body. Reliance may be placed upon the judgment rendered by the Hon"ble Supreme Court in the case of Union of India Vs. Ibrahim Uddin & Anr. reported in (2012) 8 SCC 148 wherein the Hon"ble Court has held as under:-

"44. It is settled legal proposition that not only administrative order, but also judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the court to record reasons while disposing of the case. The hallmark of the order and exercise of judicial power by a judicial forum is for

the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice delivery system, to make it known that there had been proper and due application of mind to the issue before the court and also as an essential requisite of the principles of natural justice. The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible/ unsustainable, particularly when the order is subject to further challenge before a higher forum. Recording of reasons is the principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision-making. The person who is adversely affected must know why his application has been rejected".

6. Having observed as above, this Court has no other option but to set aside the impugned award and remand the matter for fresh consideration in accordance with law after due opportunity to the parties by laying down specific time frame. The impugned award at Annexure-5 dated 26.9.2014 passed in Reference Case No. 1 of 2013 by the Central Government Industrial Tribunal No.1, Dhanbad is accordingly quashed. The learned Tribunal would endeavour to conclude the matter within a reasonable time preferably within a period of 6 month from the date of receipt of copy of this order.

7. The writ petitions are accordingly allowed in the aforesaid terms.