
(2009) 08 JH CK 0064

In the Jharkhand High Court

Case No : Writ Petition (L) No. 597 of 2003

Management of Bokaro Steel Plant

APPELLANT

Vs

Workman Ragini Devi and another

RESPONDENT

Date of Decision : 05-08-2009

Acts Referred:

Citation : (2009) 123 FLR 1026

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : Ananda Sen and Kaushal Agarwal, for the Appellant; Brij Bihari Sinha, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the parties.

The Management of Bokaro Steel Plant has filed this writ application praying therein for quashing the award dated 11.6.2002, passed by the Presiding Officer, Labour Court, Bokaro, whereby the Labour Court has held that the age of the workman at the time of his appointment was 33 years and not 43 years as claimed by the Management. Accordingly, it was held that the workman was entitled to continue in service till 31.3.2003 and, therefore, directed the Management to reinstate him with 50% back wages with other consequential benefits within three months.

2. The learned Counsel for the petitioner submitted that at the time of entry in service, the age of the petitioner was recorded to be 33 years on the averments made by him only but, subsequently, he was medically examined and he was found to be aged about 43 years and, accordingly, his age as mentioned in the Personal Data Form was corrected and was made 43 years. It is further submitted by the petitioner that the dispute regarding change of age in the service excerpts was raised by the workman only after his retirement and at that belated stage he cannot allowed to raise such dispute regarding his age.

3. From the impugned award, I find that the Labour Court has considered this point raised by the Management and held that there was no occasion for the workman to know about the scoring of his age in the Personal Data Form and, therefore, he had no occasion to challenge the same during his service period. He could know about the change of his age in the Personal Data Form only after he was made to retire by the Management. The Labour Court, on consideration of facts and materials available on record, held that in fact, the workman had declared his age as 33 years at the time of his entry into the service, but it was obnoxiously and improperly scored out by the employer without any justification with a view to force his retirement although he was entitled to continue to work till 31.3.2003. The workman had right to serve the Management till 31.3.2003. Accordingly, the Labour Court directed for reinstatement of the workman with 50% back wages and other consequential benefits within three months.

4. I further find from the impugned award that though the Management raised the plea that only after the medical examination of the workman, his age was corrected in his Personal Data Form but as it appears that in spite of the several opportunities given to the Employer/Management, no documents in support of that plea was filed by the Management before the Labour Court and, therefore, such plea, raised by the Management, was not accepted by the Labour Court.

5. The Supreme Court in the case of Syed Yakoob Vs. K.S. Radhakrishnan and Others, , has held that the writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior Courts or Tribunals, these are the cases where orders are passed by the inferior Courts or Tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction.

6. It has further been held in the said decision that the writ of certiorari is a supervisory jurisdiction and the High Court cannot act as an Appellate Court over the decision/award passed by the inferior Courts or Tribunals. Finding of facts cannot be reopened by the High Court sitting in the writ jurisdiction. Only an error of law can be corrected and not any errors of fact how so ever grave it may be.

7. In this view of the matter, the challenge of the impugned award by the Management/petitioner on the question of fact cannot be entertained. The findings of fact arrived at by the Labour Court, cannot be interfered with in absence of any error of law. Accordingly, having found no merit, this writ application is dismissed.