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**(2005) 01 JH CK 0055**  
**In the Jharkhand High Court**  
**Case No : L.P.A. No. 905 of 2003**

Management of DVC

APPELLANT

Vs

Workmen represented by DVC Staff Association and Others

RESPONDENT

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**Date of Decision :** 03-01-2005

**Acts Referred:**

**Citation :** (2005) 3 LLJ 537 : (2005) 1 BLJR 414 : (2005) 1 JCR 363

**Hon'ble Judges :** S.J. Mukhopadhaya, Acting C.J.; M.Y. Eqbal, J

**Bench :** Division Bench

**Advocate :** S.B. Gadodia, for the Appellant; Biren Poddar, for the Respondent

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## Judgement

1. This appeal has been preferred by the appellant against the judgment and order dated 30th September, 2003, passed in CWJC No. 3119 of 1996(R), whereby and whereunder, the learned Single Judge while dismissed the writ petition, as was preferred by the. appellant, observed that the findings, arrived at by the Industrial Tribunal, Ranchi, being based on appreciation of evidence and there being nothing on record to suggest that any part of the findings is beyond the record, cannot be interfered with and thereby the High Court can not substitute its findings, on the question of fact, arrived at by the learned Tribunal, under its writ jurisdiction.

2. Brief facts of the case are that at the instance of the workmen, following reference was made by the competent Government vide Notification No. 3/D1-18038/92 L&E-778 dated 15th July, 1992 :

"Whether the following temporary workmen of Chandrapura Thermal Power Station engaged on daily wages should be regularized? If not, what relief they are entitled to?"

ANNEXURE "A"

1. Shri Haripado Mahto

2. Shri Ashok Kumar Mahto

3. Shri Dukhan Singh
4. Shri Akalu Manjhi
5. Shri Samara Manjhi
6. Smt. Sita Manjhi
7. Shri Jeevan Manjhi
8. Shri Soro Manjhi
9. Shri Hari Manjhi
10. Shri Molo Kumar Patro
11. Shri Raghunath Prasad
12. Shri Narayan Giri
13. Shri A.K. Dey
14. Shri Laxmi Narayan Das
15. Shri Md. Basir
16. Shri Parmeshwar Manjhi
17. Shri Lakhiram Manjhi
18. Shri Gulam Hasada
19. Shri Moti Lal Manjhi
20. Shri Jarnath Karamkar
21. Shri R.A. Tiwari

3. Learned Presiding Officer, Industrial Tribunal, Ranchi, having heard the parties and on appreciation of oral and documentary evidences, adduced and produced on behalf of the parties, held as follows and passed the award on 20th April, 1996 in Reference Case No. 7 of 1992 :

"28.....I am of the considered opinion that the concerned eight workmen, namely, A.K. Dey, Jagarnanath Karmakar, Dukhan Singh, R.A. Tiwari, Sita Moni, Narayan Giri, Aklu Manjhi and Gulam Hansda, are entitled for their employment against Class III post at least w.e.f. 1.5.1988 and from that date they shall be entitled for their emoluments and other facilities which are being availed by the employees of Class III post minus the monetary benefits which would have been availed by them from 1.5.1988. It is hereby directed that the management shall implement the Award within three months from the date of pronouncement of the Award failing which the concerned eight workmen shall be entitled to 12% interest P.A. on the amount concerned from 1.5.1988.

29. This is my Award."

4. As already stated above, CWJC No. 3119 of 1996(R), thereafter, preferred by the appellant (Management of DVC) against the award, was dismissed by the learned Single Judge on 30th November, 2003.

5. In the present appeal, having heard the parties, when we found that the award in question is otherwise not perverse, being based on evidence, counsel for the appellant while accepted that the finding of facts cannot be interfered with by the High Court under its writ jurisdiction, submitted that the learned Tribunal cannot direct to get eight workmen employed against Class III posts with retrospective date(s), without allowing the management to consider the cases of other similarly situated daily wages employees and without entering into the question as to whether any Class III post is vacant or not to accommodate one or other workman.

6. Learned counsel for the respondents (workmen) accepted the legal position that a Court or a Tribunal can at best direct the Management to consider the case(s) of eligible daily wages employee(s) along with other similarly situated persons for his/ their employment/appointment against the existing or future vacant post(s). In view such agreement, on the question of law, we modify paragraph No. 28 of the award dated 20th April, 1996, passed in Reference Case No. 7 of 1992, to the extent, mentioned hereinunder :

"The eight workmen, namely A.K. Dey, Jagarnanath Karmakar. Dukhan Singh, R.A. Tiwari, Sita Moni, Narayan Giri, Aklu Manjhi and Gulam Hansda, are entitled for consideration of their cases for regularization of their services along with similarly situated persons either against the existing vacancies of Class HI posts from the dates, they are so eligible, or against the future vacancies, whichever is later, and they are also entitled for consequential benefits, if found fit for regularization, except the monetary benefits."

7. The appellant (Management) is, accordingly, directed to implement the award with the modification, made above, within three months from the date of receipt/ production of a copy of this order. The appeal stands disposed of with the aforesaid direction and modification in the impugned award dated 20th April, 1996.