

(2024) 06 JH CK 0054

In the Jharkhand High Court

Case No : Writ Petition (L) No. 2777 Of 2017

Management Steel Authority of India Limited

APPELLANT

Vs

Their Workman, represented by Bokaro Karamchari
Panchayat

RESPONDENT

Date of Decision : 12-06-2024

Acts Referred:

Citation : (2024) 06 JH CK 0054

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Bibhash Sinha, Prerna Jhunjunwala

Final Decision : Partly Allowed

Judgement

Anubha Rawat Choudhary, J

1. Heard the learned counsel for the petitioner.
2. This writ petition is directed against the Award dated 27.09.2016 passed by the learned Presiding Officer, Labour Court, Bokaro Steel City, Bokaro in Reference Case No. 09 of 2007, whereby it is held that the Management is not justified to retire the workman prematurely and, therefore, workman is entitled for full back wages along with all consequential benefits w.e.f. 01.09.2004 till his actual date of superannuation i.e. 30.09.2009.
3. The learned counsel for the petitioner submits that in spite of service of notice, the sole respondent has not appeared. He has submitted that his grievance is limited to the extent that the learned Labour Court Bokaro has granted full back wages to the workman with all consequential benefits w.e.f. 01.09.2004 to his actual date of superannuation i.e. 30.09.2009.
4. He submits that since the workman had expired on 29.04.2005 , the workman never appeared before the learned Labour Court to depose and his wife had deposed and gave the date of death of the workman . The learned counsel

submits that had the workman been in service, then also, he would have got the benefit only till his date of death and no further.

5. Learned counsel has also submitted that the dispute arose with regard to date of birth of the workman who was an ex-employee of Hindustan Steel works Construction Limited (HSCL) which was taken over by the petitioner-company. As per the recorded date of birth under HSCL, the workman was born on 03.09.1949 and the specific case of the workman was that although he had disclosed his date of birth as 03.09.1949 at the time of entering in the service of the petitioner company, but on account of certain interpolation by the officers of the petitioner, his age was recorded as 38 years as on 16.11.1982 when he joined the service.

6. The dispute regarding date of birth of the employee of Steel Authority of India Ltd. namely Sri Vishwanath Prasad was raised by the union namely Bokaro Karamchari Panchayat. The terms of reference were:-

"Whether pre-mature retirement of Sri Vishwanath Prasad the then Tech/Rigger, Staff No. 614728, Heavy Maintenance (Mech.) Bokaro Steel Plant by reducing his date of birth by the management is justified? If not then what relief workman is entitled to"?

7. Following issues were framed for consideration:-

" (i) Whether the management was justified to retire the workman from the services to his actual date of superannuation?

(ii) Whether the workman is entitled to any relief?

8. Both the parties led evidences oral as well as documentary in support of their cases. It has come on record in the evidence of the union that the workman expired on 29.04.2005 and his wife and son were examined as witnesses. The issue no. (i) was decided after considering the materials on record and the learned court held on the basis of evidences that the management was not justified to retire the workman prematurely and decided the issue in favour of the workman. This court finds that the issue no. (i) has been decided after due consideration of materials on record and there is no illegality or perversity with regard to the finding with respect to issue no. (i).

9. So far as issue no. (ii) is concerned, the same was decided considering the date of superannuation of the workman as 30.09.2009 which would have been the date of superannuation had he been not made to retire prematurely and the learned court held that the workman was entitled for full back wages along with the consequential benefits w.e.f. 01.09.2004 to his actual date of superannuation i.e. 30.09.2009. However, while deciding the issue no.(ii) the learned court has totally ignored the fact that the workman had expired on 29.04.2005 and under no circumstances he could have even notionally worked till 30.09.2009. So far as issue no. (ii) is concerned, the same was decided vide paragraph no. 12 onwards and the learned court after considering the date of superannuation of

the workman as 30.09.2009 which would have been the date of superannuation had he been not made to retire prematurely and the management found that the workman was entitled for full back wages along with the consequential benefits w.e.f. 01.09.2004 to his actual date of superannuation i.e. 30.09.2009.

10. After hearing the counsel for the petitioner this court finds that during the course of hearing the petitioner has raised grievance only to the limited extent with regard to grant of consequential benefits concerning the workman. The consequential benefits were granted for the period from 01.09.2004 to his actual date of superannuation i.e. 30.09.2009 and as per the petitioner the relief at best was required to be confined till 29.04.2005 and no more, as the workman had expired on 29.04.2005 as per the evidence of his wife recorded in the impugned award at paragraph no. 8 which is quoted as under: -

" 8. Two witnesses namely (1) Smt. Chhathia Dey Wife and (2) Shrawan Kumar Rai Son were examined on behalf of the workman side.

WW-1 Smt. Chhathia Devi stated in her examination-in-chief that late Vishwanath was her husband who was initially appointed with HSCL and worked for 10-11 years and thereafter he joined the BSL. The witness further stated that her husband was forcibly retired on 31/08/2004 while he was due to retire in the year 2009. According to her, workman died on 29/04/2005 and left behind herself and three sons. In cross examination she denied the suggestion that the workman was retired from the services on attaining the age of 60 years.

WW-2 Shrawan Kumar Rai is the son of workman and stated in his examination-in-chief that his father initially served the HSCL and proved a certificate issued by the management of HSCL. which was marked as W-1 wherein his father's date of birth is shown as 03/09/1949. The witness further stated that his father resigned from HSCL and joined the BSL on 16/11/82. He also identified the certificate dt. 13/11/92 & letter dt 7/8 05.83 issued by HSCL, which were marked as Ext W-2 & Ext. W-3 respectively He also identified the notice dt. 04/03/2004 issued by the management which was marked as Ext W-4. Ext.W-5 is the report dt. 12/06/04 regarding vacation of quarter and Ext. W-6 is the Personal data form. According to him, his father was due to retire in the year 2009. In cross examination, he stated that he is not aware whether any age certificate was produced by his father or not or he was subjected to any medical examination or not The witness stated that he has no proof showing an industrial dispute regarding age was raised in the year 2001."

11. Considering the aforesaid aspect of the matter, and having gone through the impugned Award, this Court finds that the learned Court while granting relief has failed to consider that the concerned workman had expired on 29.04.2005 itself and having ignored this aspect of the matter the learned court has granted the relief of back wages to be calculated till the date of superannuation of the workman i.e. 30.09.2009. This Court is of the considered view that the relief which has been granted beyond 29.04.2005 is ex-facie perverse and calls for

interference under writ jurisdiction. Accordingly, the relief granted to the workman would now be given to the legal heir/ successor/ legal representative of the deceased workman only for the period from 01.09.2004 to 29.04.2005 and no more. The impugned award is modified to the aforesaid extent and this writ petition is partly allowed in the aforesaid terms.

12. Pending I.A., if any, is closed.