

(2012) 07 GAU CK 0009
In the Gauhati High Court

Case No : Writ Petition (Civil) No. 178 of 2003

Managing Director, Tripura Jute Mills Ltd.

APPELLANT

Vs

Kamal Bikash Roy

RESPONDENT

Date of Decision : 19-07-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 7(1)

Citation : (2012) 134 FLR 927

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : G.S. Das, for the Appellant; Somik Deb, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Das, J.—By this writ petition, the petitioner has challenged the judgment & order, dated 30.7.2002, passed by learned Presiding Judge, Labour Court, West Tripura, Agartala (District & Sessions Judge) in Labour Court Case No. 2/2001, registered on a reference made by State Government u/s 7(1) of the Industrial Disputes Act, 1947. Heard learned Counsel, Mr. G.S. Das for the petitioner and learned Counsel, Mr. Somik Deb for the respondent.

2. The dispute referred u/s 7(1) of the Industrial Disputes Act, 1947 mentioned in the schedule of the reference reads thus:

(a) Whether Sri Kamal Bikash Roy is entitled to get the scale of Rs. 4200-8650/- as per Revised Scale of Pay 1999 and if so, the date of effect of the scale and

(b) If not, to what scale, if any, Sri Roy is entitled as per Revised Scale of Pay 1999?

The presiding Judge of the Labour Court, considering the materials placed before it and after hearing the parties, held that Sri Kamal Bikash Roy is entitled to get the pay scale of Rs. 4200-8650/- as per Revised Scale of Pay 1999 and the said

special pay scale should be given effect from the date when person occupying the post of "Pharmacist" was given the said pay scale.

3. Upon hearing learned Counsel of both side and after going through the writ petition, annexed documents and the counter-affidavit, filed by respondent, I find certain admitted facts and those are:

(a) The respdt Kamal Bikash Roy was appointed, on 11.1.1981, by the General Manager of Tripura Jute Mills Ltd. (for short TJML) on a monthly consolidated stipend of Rs. 180/- (Rupees one hundred and eighty).

(b) His academic qualification is Madhyamik passed.

(c) He successfully completed the training and was shifted to Statistical Quality Control Unit of the TJML.

(d) He was provided with a consolidated pay of Rs. 365/- (Rupees three hundred and sixty five).

(e) He is a workman.

(f) His pay was fixed as per bipartite agreement between the TJML and its Workers Union.

(g) By a memorandum, dated 19.8.1985, issued by Personal Officer, TJML the respdt was designated as Statistical Quality Control Investigator (for short S.Q.C.I) and a pay scale of Rs. 404-7-467-9-575/- was allowed, at the initial basic pay of Rs. 425/- (Rupees four hundred and twenty five) only per month w.e.f. 20.7.1985 was fixed.

(h) Pursuant to bipartite agreement, the pay of the respdt was subsequently raised to Rs. 670/- (Rupees six hundred and seventy) per month with an increment of Rs. 18/- (Rupees eighteen) per year.

4. By a Notification, dated 16.6.1999, published in Tripura Gazettee, dated 21.6.1999, the Tripura Jute Mills Employees (Revised Pay) Rules, 1999 was promulgated giving effect from 1.4.1999. Under that revised pay rules, pay of the respdt was fixed in the scale of Rs. 4200-8650/-. Subsequently, TJML fixed the pay of respdt in the scale of Rs. 3300-7100/- instead of Rs. 4200-8650/-. The respdt submitted representation to the authority but received no positive response. Therefore, the respdt initiated inter alia the dispute as a workman which ultimately referred by State Government to the Labour Court.

5. TJML, the writ petitioner herein, contended that the ROP 1999 promulgated by a notification, dated 16.6.1999, for the employees of Tripura Jute Mills was subsequently revoked by a letter, dated 5.7.1999 and thereafter, certain directions were issued giving guidelines to the Managing Director of TJML to place the same before the Board of Directors of TJML and thereafter, considering the qualification and job responsibility attached with the post of S.Q.C.I., the authority of TJML allowed the pay scale of Rs. 3300-7100/-. The decision was

taken having regard to the nature and quality of work, the respondent was performing and there was nothing arbitrary or illegal in the decision.

6. Learned Counsel, Mr. Das, appearing for the petitioner, has submitted that the ROP 1999, notified on 16.6.1999, was subsequently revoked by a letter, dated 5.7.1999 and thereafter, certain guidelines were issued by the Finance Department of Government of Tripura to the TJML to fix the revised pay scale to the employees of TJML and accordingly, after giving due consideration to the qualification and responsibility attached to the job, to which the respdt was employed, the appropriate authority allowed pay scale of Rs. 3,300-7,100/-. The scale of Pharmacist, as appeared in Sl. No. 105 (Annexure-C to the writ petition) was not allowed to Statistical Quality Control Investigator (S.Q.C.I) since the qualification and job responsibility were not same. There was nothing illegal in the decision taken by the appropriate authority and the Labour Court utterly failed to consider the fact and wrongly placed the Pharmacist and S.Q.C.I at par and thereby directed the petitioner to allow the respdt pay scale of Rs. 4200-8650/- which is not tenable in law.

7. On the other hand, appearing for the respondent learned Counsel, Mr. Deb, has submitted that the respdt is a workman. Before revision of pay by ROP, 1999 he was drawing Rs. 670/- (Rupees six hundred and seventy) per month with annual increment of Rs. 18/- (Rupees eighteen) and that pay scale was revised by ROP 1999 to the scale of Rs. 4200-8650/-. The respondent was deprived from that scale arbitrarily and his scale was fixed @ Rs. 3300-7100/- which he has rightly challenged. The revision was made scale to scale and, therefore, the authority was bound to allow respdt the same scale which was allowed to other similarly situated persons. There was nothing wrong in the judgment passed by Labour Court and the Writ Court may not interfere in the judgment.

8. I have meticulously gone through the impugned judgment and the materials placed on record. Under Article 226 of the Constitution, a Writ Court can interfere in a judgment/order passed by inferior Court/Tribunal only in the case of unconstitutionality, illegality, want of jurisdiction or mala fides. Burden lies on the petitioner to show that the judgment/order, impugned, suffers from illegality or unconstitutionality or mala fide in any manner. The jurisdiction of the Labour Court has not been challenged. The writ petitioner placed no material on record to justify the fixation of pay of the respondent in the scale of Rs. 3300-7100/- instead of Rs. 4200-8650/-. The documents annexed clearly shows that the pre-revised pay scale of Rs. 670/- was revised to the scale of Rs. 4200-8650/-. While that scale was allowed to the Pharmacist, there was no reason at all for the writ petitioner to deprive the respdt from that scale. The writ petitioner stated that taking into consideration the educational qualification and job responsibility the inferior scale was allowed to the respdt but no evidence/material adduced to substantiate it. Under such circumstances, I find nothing to interfere in the judgment and order passed by Labour Court.

9. In view of the discussion made above, the writ petition stands dismissed. No

order as to costs.

10. The judgment and Order, dated 30.7.2012, passed by learned Presiding Judge, Labour Court (District and Sessions Judge), West Tripura, Agartala, is upheld. Send back the LC records along with a copy of this judgment.