
(2013) 10 JH CK 0013
In the Jharkhand High Court
Case No : WP (S) No. 105 of 2011

Mostt. Sushila Devi

APPELLANT

Vs

M/s. Bharat Coking Coal Limited and Others

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2013) 4 JLJR 512

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : P.K. Mukhopadhyay, for the Appellant; Ananda Sen, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The original petitioner died during the pendency of the writ application and has been substituted by his widow.

2. The petitioner was dismissed on 14.7.2000 vide Annexure-2 order issued by the office of the Agent/Project Officer, Muraidih Colliery, Dhanbad, Bharat Coking Coal Limited on account of his conviction in a R.C. Case No. 11 of 1993 passed by the Sub-Judge, C.B.I., Dhanbad vide judgment dated 22.12.1999, in view of clause 28 of the certified standing orders. The petitioner, however, was acquitted of the criminal charges by a judgment passed in Cr. Appeal No. 40 of 2000(R) dated 30.3.2007 just one day prior to his natural date of superannuation i.e. 31.3.2007. In such circumstances, the petitioner has approached this Court for seeking consequential benefits of service from the date of dismissal till his natural date of retirement. He had also sought quashing of the original order of punishment, whereby he was discharged from service in view of the subsequent development leading to his acquittal in a criminal case being R.C. Case No. 11 of 1993, which was the basis for his dismissal.

3. It is true that the petitioner was acquitted, vide Annexure-3, judgment dated 30.3.2007 passed by this Court, just before reaching the age of superannuation

on the next date. In such circumstances, the petitioner could not have sought for a relief for reinstatement upon reconsideration of the original order of punishment of dismissal from service.

4. The respondents, however, in their counter affidavit have also taken a stand that the petitioner cannot be taken back in the service as he had reached to the age of superannuation i.e. 31.3.2007 itself. Though the petitioner has made a claim for entire back-wages/arrears of salary for the period he was dismissed from service till the order of his acquittal but the respondents have seriously objected the same relying upon a decision of the Hon"ble Apex Court rendered in the case of Union of India (UOI) and Others Vs. Jaipal Singh, on the ground that the prosecution was not at the behest of the employer. On that score, they have also sought to distinguish the Division Bench judgment relied upon by the petitioner rendered in the case of The Chairman-cum-Managing Director, BCCL and Another Vs. Binod Kumar Singh and Another,

5. However, the respondents in changed circumstances are required to reconsider the original order of dismissal of the petitioner in view of his acquittal vide judgment contained at Annexure-3 dated 30.3.2007. It may be possible that the respondents, in changed circumstances, may choose to modify the original order of punishment also taking into account that the original petitioner is no longer there and at least the dependent widow, who is substituted petitioner, may be entitled to any post retirement benefit upon reconsideration of such order of dismissal by the respondents.

6. Therefore, the writ petition is being disposed of by allowing the petitioner to approach respondent No. 5, Project Officer, Muraidih Colliery, Dhanbad with a fresh representation for reconsideration of the original order of punishment in view of the subsequent facts and developments together with all supporting facts and documents within a period of three weeks. On receipt of such representation, the respondent No. 5, Project Officer, Muraidih Colliery, Dhanbad shall consider the claim of the petitioner for reconsideration of the original order of punishment in accordance with law by passing a reasoned and speaking order within a period of 12 weeks from the date of receipt of such representation, which shall also be communicated to the petitioner.

7. Needless to say that if the respondents choose to modify the original order of punishment in the changed circumstances as indicated hereinabove, any consequential benefits, which may be accruable to the substituted petitioner, be also released within a reasonable time thereafter. This writ petition is, accordingly, disposed of.