
(2021) 12 JH CK 0016

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 2667 Of 2016, 469 Of 2019

M/s Central Coalfields Limited And Others

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 15-12-2021

Acts Referred:

Industrial Disputes Act, 1947 — Section 29, 33C(2)

Citation : (2021) 12 JH CK 0016

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amit Kumar Sinha, Bhola Nath Ojha, Saket Kumar, Faisal Alam

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Amit Kumar Sinha, learned counsel for the petitioners, Mr. Bhola Nath Ojha and Mr. Saket Kumar, learned A.P.Ps. for the State and Mr. Faisal Alam, learned counsel for the intervener.

2. These petitions have been taken through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent these matters have been heard.

3. Both the petitions are heard together as common question of facts are involved in both the petitions.

4. In Cr.M.P. No.2667 of 2016, the petitioner is a Company M/s Central Coalfields Limited which is being represented by Mr. B.R. Reddy, General Manager of N.K. Area, Central Coalfields Limited and in Cr.M.P. No.469 of 2019, the petitioner was Chief Manager (MM), Regional Stores, N.K. Area, Central Coalfields Limited.

5. These petitions have been filed for quashing the entire criminal proceedings including the order taking cognizance dated 08.03.2013 passed by the learned

Additional Chief Judicial Magistrate, Ranchi in C-III Case No.76 of 2013 whereby cognizance has been taken against the petitioners under Section 29 of the Industrial Disputes Act, 1947, now pending in the court of the learned Additional Chief Judicial Magistrate, Ranchi.

6. Mr. Amit Kumar Sinha, learned counsel for the petitioners submits that the workman namely Nizamuddin Ansari was dismissed from service w.e.f. 19.08.1991. Learned counsel Mr. Faisal Alam has appeared on behalf of the said workman by way of filing one intervention petition being I.A. No.2981 of 2017 in Cr.M.P. No.2667 of 2016. He further submits that the dispute was raised under the Industrial Disputes Act by the concerned workman, which was referred to the Central Government Industrial Tribunal No.2 at Dhanbad, which was numbered as Reference No. 65 of 1994 in which award was passed on 05.05.2006 with a direction to reinstate the workman into service with 50% back wages. The concerned Company has challenged the said order in W.P.(L) No.1363 of 2007, which was dismissed vide judgment dated 24.04.2012. Thereafter, the concerned Company preferred L.P.A. No.318 of 2012 which was dismissed by the Division Bench of this Court vide order dated 06.11.2012. The intervener/workman attained the age of superannuation on 31.01.2013. Thereafter, S.L.P. No.10499 of 2013 was preferred by the concerned Company against the order passed by the Division Bench of this Court, which was also dismissed vide order dated 22.08.2014. He also submits that after dismissal of the said S.L.P. the workman was paid the amount to the tune of Rs.11,04,430/- by an account payee cheque no.908814 dated 12.01.2015 towards 50% back wages for the year 1991 to 2013, as directed in the said reference case. He further submits that award has already been complied with and no purpose will be served in allowing the proceeding to continue.

7. Mr. Faisal Alam, learned counsel for the intervener submits that the workman is entitled for more amount as the said amount was paid on the last wages drawn by the workman. He relied upon the judgment rendered by the Punjab and Haryana High Court in the case of The Secretary to Govt. of Punjab, Department of Irrigation, Chandigarh & another v. Vinod Kumar & another, reported in 2008 SCC OnLine P&H 2020.

8. In view of the above facts, it transpires that the award in question has been substantially complied with and amount of Rs.11,04,430/- was paid to the workman. The Company was having the remedy under the law and the matter went up to the Hon'ble Supreme Court. The workman was superannuated on 31.01.2013 and the amount of back wages was calculated for the year 1991 to 2013 and the same has also been paid to the workman. Thus, to allow to continue the criminal proceeding will amount to abuse of process, in view of the fact that award has been substantially complied with.

9. The judgment relied by the learned counsel for the intervener was based on Section 33C(2) of the Industrial Disputes Act and that petition was required to be filed before the concerned Labour Court/Industrial Tribunal.

10. If the intervener is still aggrieved by non-payment of the awarded amount, remedy is available under Section 33C(2) of the Industrial Disputes Act and for that criminal proceeding under Section 29 of the Industrial Disputes Act is not required to continue.

11. In view of these discussions, the entire criminal proceedings including the order taking cognizance dated 08.03.2013 passed by the learned Additional Chief Judicial Magistrate, Ranchi in C-III Case No.76 of 2013, pending before the court of the learned Additional Chief Judicial Magistrate, Ranchi are, hereby, quashed.

12. Accordingly, both the petitions are allowed in above terms and the same stand disposed of.

13. Consequently, I.A. No. 2981 of 2017 also stands disposed of.