
(2016) 03 JH CK 0087

In the Jharkhand High Court

Case No : L.P.A. No. 167 of 2015 with I.A. No. 4978 of 2015

Narayan Giri

APPELLANT

Vs

Chairman, Damodar Valley Corporation & Others

RESPONDENT

Date of Decision : 28-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 JBCJ 514 : (2016) 2 JCR 653

Hon'ble Judges : Virender Singh, C.J. and Shree Chandrashekhar, J.

Bench : Division Bench

Final Decision : Dismissed

Judgement

Virender Singh, C.J.—I.A. No. 4978 of 2015.

1. For the reasons carved out in the instant application and there being no objection from the side of the respondents, the delay of 9 days in filing the accompanied appeal, is hereby condoned.

2. I.A. No. 4978 of 2015, stands disposed of accordingly.

L.P.A. No. 167 of 2015

3. Aggrieved by order dated 30.01.2015 in W.P.(S) No. 4328 of 2005 whereby, the learned Writ Court has declined to interfere with order dated 13.01.2005 whereby, the appellant-writ petitioner's claim for stepping up of pay has been declined, the present Letters Patent Appeal has been preferred by him.

4. The appellant has appeared In-person and with the consent of the counsel for the respondents, the present Letters Patent Appeal has been taken up for final consideration.

5. The appellant-In-person contends that there is no difference between Turner and Driller. Both, the appellant as well as Ramjit Yadav were appointed in the same cadre however, they were posted in different wings. While the appellant

was working on the Driller side, Ramjit Yadav was working in Turner side. He claims that he was senior to the said Ramjit Yadav and therefore, his claim for stepping up of pay has wrongly been denied by the respondents.

6. Opposing the claim of the appellant that he along with Ramjit Yadav belong to the same cadre, the learned counsel for the respondent-Damodar Valley Corporation reiterates that both the employees were born in different cadre and therefore, both cannot be treated alike.

7. At the outset, it is noticed that the appellant was appointed as casual worker on 31.12.1961 and thereafter, he was appointed as Helper in the Work Charged Establishment from 13.12.1963. Initially, he was attached to one Sri Sahdeo Prasad, Turner and after his transfer in August, 1965, the appellant was posted as Driller Helper. Subsequently, he was posted as Assistant Driller on 12.08.1966 in the pay-scale of Rs. 80-140. He was promoted and posted as Driller Grade-III in the scale of Rs. 105-160.

8. In Reference Case No. 10 of 1977, the Labour Court while adjudicating the dispute "Whether promotion of Sri Narayan Giri to the post of Assistant Driller from 12.08.1966 is proper ? If not, whether Sri Giri would also be entitled to be promoted to the post of Assistant Turner from 12.08.1966 and would also be entitled to the benefits accruable thereafter.", recorded a finding that both the category of jobs i.e. on Turner side and on Driller side, are different and appellant and other two workmen namely, Ranjit Yadav and Rajendra Prasad cannot be regarded as equals. The Labour Court has observed as under :

11. "The facts noted above show that from 1965 onwards Sri Giri continued to work on the driller side and the aforesaid two workers named Ranjit Yadav and Rajendra Prasad continued to work right from the beginning on the turner side. In this way Sri Giri on the driller side and the aforesaid two workers on the turner side and had their promotions in their respective trades and also enjoyed the benefits of revision of pay scales which decidedly were different for the aforesaid two different trades. The question of discrimination should arise only when the employer treats equals unequally. Because of the clear difference in the categories of jobs which the worker and other two workmen were employed in they cannot be regarded as equals. The management has every right to classify the workmen according to their trades. The contention advanced on behalf of the concerned workman that had he been retained on the turner side he would not have suffered in the matter of promotion and pay scales, appears only to be wishful thinking..."

9. The appellant has not disputed that he was promoted as Assistant Driller in the pay-scale of Rs. 80-140 and he was appointed as Tech. Grade-III in the pay-scale of Rs. 105-160 which was revised to Rs. 245-490 whereas, Ramjit Yadav was promoted as Assistant Turner in the pay-scale of Rs. 130-180 in the year, 1969 and thereafter, he was promoted to Turner Grade-I in the pay scale of Rs. 355-755. Thus, the claim of the appellant that both were born in the same cadre

is liable to be rejected. The findings recorded by the Labour Court have not be challenged by the appellant.

10. Considering the aforesaid facts, we find no infirmity in the impugned order dated 30.01.2015 handed down by the learned Writ Court warranting interference by this Court. Resultantly, the present Letters Patent Appeal stands dismissed.