

(2003) 07 JH CK 0058
In the Jharkhand High Court
Case No : WP (C) No. 2321 of 2002

Prakash Iron and Steel

APPELLANT

Vs

Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 02-07-2003

Acts Referred:

Citation : AIR 2004 Jhar 1 : (2003) AIR Jhar HCR 912 : (2003) 10 AllIndCas 546 : (2003) 3 JCR 299 : (2003) 3 JLJR 308

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Rajendra Prasad, for the Appellant; V.P. Singh and R. Shankar, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has challenged the order dated 20.3.2002 passed by respondent No. 2, General Manager-cum-Chief Engineer, Dumka Area Electricity Board, Dumka, whereby the claim of the petitioner under Clause 13 of the H.T. Agreement has been disallowed and fresh bill has been raised,

2. The short question that falls for consideration is as to whether respondent No. 2 was justified in disallowing the claim for the period when the factory was closed due to labour unrest and further petitioner is entitled to remission for non-supply of energy due to interruption below 30 minutes.

3. Petitioner factory is engaged in Re-rollers, Fabricators and Mechanical Engineers. It is High-tension consumer having contract demand of 225 KVA and agreement to this effect was entered into between the petitioner and the then Bihar State Electricity Board. It is contended that due to labour unrest and strike, the factory was dosed from 19.10.2000 to 8.12.2000, as a result of which there was no consumption of electricity and there was also interruption in the constant supply of electricity. Petitioner therefore lodged a claim under Clause 13 of the

H.T. Agreement on 24.8.2001 and deposited 50% of the A.M.G. Bill before filing the said claim. Respondent No. 2 who is a competent authority disposed of the claim by the impugned order and disallowed remission disbelieving the closure of the factory due to strike.

4. I have heard Mr. Rajendra Prasad, learned counsel appearing for the petitioner and Mr. Rajesh Shankar, learned counsel for the Board. So far claim of remission for the strike period is concerned, respondent No. 2 recorded the following finding :

"The representative of the firm stated that his factory was closed from 18.10.2000 to 8.12.2000 due to strike and he had submitted photo copy of Assistant Labour Commissioner, Deoghar duly attested by Superintendent, Central Excise & Custom, Deoghar. But the Electrical Superintending Engineer Electrical Circle, Deoghar vide his letter No. 151 dated 24.1.2002 reported that no information about closure of factory, due to strike, during 18.10.2000 to 8.12.2000 is received in the Circle, Deoghar. Hence as per report of ESE (S) Deoghar, remission during the strike period i.e. from 18.10.2000 to 8.12.2000 is hereby rejected."

5. It is therefore, evident that in support of the closure of the factory due to strike, petitioner submitted certificate issued by the Assistant Labour Commissioner, Deoghar, genuineness of which has not been disputed by the respondents. Petitioner also annexed copy of the letter by which information was given to the respondents regarding closure of the factory during strike. Even assuming that such information was not received by the Board, the fact remains that factory was closed for the period 18.10.2000 to 8.12.2000 duly supported by the certificate granted by the Labour Department. In that view of the matter, respondent No. 2 ought not to have rejected the claim of remission claimed by the petitioner during the aforesaid period when the factory remains closed.

6. So far proportionate remission due to interruption in the constant supply of electricity is concerned, respondent No. 2 admitted interruption for the reason that the details of interruption report has been submitted both by the petitioner and by the Board. Respondent No. 2 on scrutiny of both the interruption report came to a finding that total interruption in power supply during April 2000 to March 2001 was 1034 hours only. He has excluded the interruption, which was for a period more than 30 minutes. From the order, it appears that respondent No. 2 has not correctly appreciated the law settled by this Court in the matter of grant of remission because of the interruption in the constant supply of electricity.

7. Taking into consideration all these facts, I am of the opinion that the impugned order rejecting the claim of the petitioner under Clause 13 of the H.T. Agreement is not in accordance with law. The matter needs reconsideration by respondent No. 2.

8. For the aforesaid reasons, this writ application is allowed and the impugned order is quashed. The matter is remitted back to respondent No. 2 to consider

the claim of the petitioner under Clause 13 of the H.T. Agreement afresh and pass a reasoned order in accordance with law.