

(2024) 08 JH CK 0075

In the Jharkhand High Court

Case No : Writ Petition (S) Nos. 2253, 2395, 2397, 2600, 2647, 2698, 2833, 3049, 3312 Of 2023

Ravindra Baraik & Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 16-08-2024

Acts Referred:

Citation : (2024) 08 JH CK 0075

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Sujit Kumar Singh, Anuj Kumar Trivedi, Rohit Kumar Gupta, Ajit Kumar, Tanya Singh, Krishna Shankar, Sandeep Singh Munda, Saurabh Shekhar, Rajesh Kumar, Govind Ray Karan, Ankit Apurva, Indranil Bhaduri, Shruti Shrestha, Anuj Burman

Final Decision : Allowed

Judgement

Ananda Sen, J

1. Heard the learned counsel for the parties.
2. By way of filing this writ petition in the nature of certiorari, the petitioner has prayed for setting aside the order dated 6.1.2021 passed in B.S.E. Appeal No. 01/2019 (Annexure-6) by the Presiding Officer, Industrial Tribunal Ranchi, whereby the appeal preferred by the petitioner against the order dated 3.8.2017 passed by the Assistant Labour Commissioner-cum-Controlling Authority in B.S. Case No. 06/2001 has been dismissed. It has also been prayed for all consequential benefits on the event of the setting aside the impugned order.
3. Counsel for the petitioner submits that the petitioner is entitled for his salary, as per his appointment letter, which has not been paid. This fact has been lost sight of by both the Forums. He also submits that when the petitioner was appointed by the appointment letter, the terms and conditions of the appointment letter should have been strictly followed by the employer i.e.

respondent No. 3 and the petitioner should have been paid all emoluments and benefits strictly as per the appointment letter. As per him, both the Authorities under the Bihar Shops and Establishment Act, 1983 and the Presiding Officer, Industrial Tribunal, Ranchi as an Appellate Authority have misdirected themselves by dismissing the claim of this petitioner.

4. Counsel appearing on behalf of respondent Nos. 3 to 5 submits that the very existence of the appointment letter is doubtful and the same is not a genuine document. When the appointment letter has been held not to be genuine, the petitioner cannot derive any benefit of the same nor any relief can be granted on the basis of the terms and conditions of that letter.

5. This is an application under Article 226 of the Constitution of India and the writ of certiorari has been sought for by the petitioner. This Court while exercising jurisdiction under Article 226 of the Constitution is not the Appellate Court.

6. In this case, admittedly the petitioner is claiming his salary and other benefits, which according to him, has not been paid, as per his appointment letter. The said appointment letter, which is Ext.-D/4, was only notarised by an Advocate. The genuineness of the said document was considered and both the Assistant Labour Commissioner-cum-Controlling Authority in B.S. Case No. 06/2001 and the Appellate Authority i.e. the Presiding Officer, Industrial Tribunal, Ranchi, had come to a concurrent finding of fact that the appointment letter, which the petitioner is relying upon, is not genuine and is a doubtful document. Whether a document is genuine or not, cannot be decided in an adjudication under Article 226 of the Constitution of India. Both the fact finding Authorities under the Bihar Shops and Establishment Act, 1983 i.e. the Controlling Authority and the Appellate Authority had come to a definite finding of fact, considering the evidences led by the parties, that the said document is not genuine rather is doubtful.

7. The scope of judicial review is very limited. The Hon'ble Supreme Court in the case of Indian Overseas Bank v. Om Prakash Lal Srivastava, reported in (2022) 3 SCC 803 in para 17 has held as under:

"17. We would like to emphasise at the threshold that there are certain inherent legal limitations to the scrutiny of an award of a Tribunal by the High Court while exercising jurisdiction under Article 226 of the Constitution of India. We may refer to the judgment of this Court in GE Power India Ltd. v. A. Aziz [GE Power India Ltd. v. A. Aziz, (2021) 13 SCC 243 : 2020 SCC OnLine SC 782] . If there is no jurisdictional error or violation of natural justice or error of law apparent on the face of the record, there is no occasion for the High Court to get into the merits of the controversy as an appellate court. That too, on the aspect of an opinion formed in respect of two sets of signatures where the inquiry was held by an officer of the Bank who came to an opinion on a bare comparison of the signatures that there is a difference in the same. It has been looked at from the

perspective of a "banker's eye". This is, of course, apart from the testimony of the sister-in-law of the respondent."

8. This Court exercising jurisdiction under Article 226 of the Constitution cannot arrive at different finding of fact, which has been set at rest by two Forums. Further merely notorising a document will not make the said document genuine. Further I find that there is no jurisdictional error or violation of natural justice or error of law apparent on the face of the record.

9. When a document based on which, the petitioner is claiming the benefits, is itself not a genuine document, he cannot derive any benefit from the said document.

10. Thus, I find no merit in this writ petition. Accordingly, this writ petition is dismissed being devoid of merit.