
(2019) 09 CAL CK 0282

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 8873 (W) Of 2015

Soumen Ghosh

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 23-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 09 CAL CK 0282

Hon'ble Judges : Shekhar B. Saraf, J

Bench : Single Bench

Advocate : Ambu Bindu Chakraborty, Mrinmoyee Roychowdhury, Gausul Alam, Ranjit Rajak

Final Decision : Dismissed

Judgement

Shekhar B. Saraf, J

1. As per direction of this Court dated September 9, 2019 the petitioner served upon the added respondent being the proprietor of the company and the service was returned with endorsement that the proprietor of M/s. Victoria Engineering Works has expired. Let the affidavit of service be kept with the record.

2. This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by orders dated August 14, 2003 and July 17, 2014 passed by the 2nd Industrial Tribunal.

3. The facts of the case are that the father of the petitioner was employed with one M/s. Victoria Engineering Works. The father of the petitioner was dismissed from service and thereafter an industrial dispute arose wherein the 2nd Industrial Tribunal by an order dated November 27, 2000 directed the company, M/s. Victoria Engineering Works to reinstate the petitioner's father along with backwages and other consequential benefits. Subsequently, in the year 2003 the order passed on November 27, 2000 was recalled by the Tribunal and a 'no dispute' award was passed. This award was not challenged by the petitioner's

father. The petitioner's father subsequently died in the year 2009 and the petitioner in the year 2014 filed an application before the 2nd Industrial Tribunal for recalling the earlier order of August 14, 2003. The present writ petition is in reference to order passed by the 2nd Industrial Tribunal dated July 17, 2014 wherein the Industrial Tribunal rejected the application of the petitioner.

4. I have perused the order passed by the Industrial Tribunal and I find that the Tribunal has examined in great detail the delay in filing of the said application. The Tribunal has recorded that the petitioner's father did not challenge the award passed in the year 2003 and even the present petitioner has only challenged the said order after a period of eleven years. The Tribunal held that there was no provision in law to allow the petitioner to reagitate the issue since the petitioner had filed the application way beyond the period of limitation.

5. In my view, the petitioner has not been able to properly explain the delay in filing the petition before the Tribunal and accordingly, the decision of the Tribunal, in the facts and circumstances of the case, was absolutely correct. Furthermore, it is to be noted that sympathetic ground cannot be taken only for the purpose of defeating the law of limitation and such a ground has no place in law. After examination of the order dated July 17, 2014, I am of the view, that the order passed is in accordance with law and does not require any interference by this court.

6. In the light of the same, the writ petition is dismissed without, however, any order as to costs.

7. Since no affidavit is called for, all allegations made in the writ petition are deemed not to have been admitted.

Urgent certified copy of this order, if applied for, be given to the parties on usual undertaking.