

(2002) 07 JH CK 0066
In the Jharkhand High Court
Case No : L.P.A. No. 493 of 1997 (R)

The Workmen represented by National Coal Workers Congress	APPELLANT
Vs	
Employers in relation to the Management of Central Mine Planning and Design Institute Ltd. and Others	RESPONDENT

Date of Decision : 04-07-2002

Acts Referred:

Citation : (2002) 07 JH CK 0066

Hon'ble Judges : S.J. Mukhopadhaya, J;Lakshman Uraon, J

Bench : Division Bench

Advocate : A.K. Sinha, for the Appellant; K.B. Sinha, for the Respondent

Judgement

1. It appears that an industrial dispute was raised by the concerned workmen represented by the National Coal Workers Congress. The appropriate Government made a reference to the Tribunal for its adjudication, registered as Reference Case No. 100/1991. The employers in relation to the management of M/s. Central Mines Planning and Design Institute Limited (Management for short), filed an application on 26.9.1996. The said application was taken up and pressed on behalf of the Management which was rejected by order dated 8.4.1997.
2. In the aforesaid background, the Management preferred a writ petition being CWJC No. 1190/97(R), wherein the learned Single Judge, by the impugned order dated 18.9.1997, set aside the order passed by the Tribunal on 8.4.97 and remitted back the case to the Tribunal with a direction to hear the parties on the application filed by the Management-writ petitioner on 26.9.1996 and pass an appropriate order in accordance with law.
3. The workmen represented by the National Coal Workers Congress, in this appeal, have mainly challenged the jurisdiction of the learned single Judge to interfere with the interim order dated 8.4.1997.
4. The counsel for the appellant submitted that the evidences were practically

closed before the Tribunal. It was at the stage of hearing the Management filed an application on 26.9.1996 to linger the matter. The said application dated 26.9.1996 was not pressed at appropriate stage but at the time of final hearing, it having been pressed, was rightly rejected by the Tribunal vide order dated 8.4.1997.

5. The learned counsel appearing on behalf of the parties informed that because of pendency of this appeal no final award passed in the reference case which was instituted in the year 1991. Thus it is evident that for action of one or other party though about 11 years have passed, the Tribunal could not give its award.

6. We have gone through the application as was preferred by the Management on 26.9.1996 which reads as follows :

1. That this Hon"ble Tribunal was pleased to direct for production of the papers related to the Contract System/ appointment of contractors and payment of the workers from time to time, for proper adjudication.

2. That in pursuance to above direction the employer above named beg to file the following documents relating to contract.

Sl. No. Description Remarks

1. Work order to M/s. Guzzini Fiesta dt. 12.9.1986. (P-1 to 13)

2. Work Order to the Chief dt. 6.2.1987 (P-14 to 23)

3. Work Order to M/s. Rally Restaurant dt. 3.2.1988. (P-24 to 41)

4. Work Order to M/s. S.K. Nehru dated 21.5.1990. (P-42 to 61)

5. Work Order to M/s. Rally "restaurant dated 22.5.1992 (P-62 to 74)

6. Work Order to Fresh & Garden for temporary period dt. 18.3.1994. (P-75)

7. Work Order to M/s. Rally Restaurant dt. 1.7.1994. (P-76 to 96)

8. Work Order to M/s. The Chef for temporary period dt. 21.7.1995. (P-97 to 118)

9. Training Plans from 1986-1987 to 1995-1996. (P-119 to 151)

3. That this is submitted that the papers related to the payment of workers could not be collected as yet from the concerned Contractors despite attempt being made in this regard.

Letter No. 6087 &" 6088 both dated 20.2.96 addressed to the Chef and M/s. Rally Restaurant to submit the "wage sheets" are being annexed herewith at 10 & 11 respectively. (Page No. 152 & 153).

4. That this is submitted that the other two Contractors namely M/s. Guz-zini Fiesta & M/s. S.K. Nehru, the properties of which have long expired, their family members could not be traced.

5. That this is further submitted that the above records being material evidence in the present reference, this non-availability may be detrimental in deciding the case. As a matter of fact, the said records in addition to Register of persons employed and Muster Roll, both required to be maintained by the Contractor under the relevant provisions of the Contract Labour (Regulation & Abolition) Act, will not only reveal the name of the workmen engaged but their nature of employment & permanent Home Addresses as well

6. That in the above facts and circumstances, it is prayed that one month more time may kindly be given for making further attempts for location of the concerned Contractors and findings of the Muster Roll, Wages Register, Register of Persons employed all required to be maintained by the Contractors.

7. That this is further prayed that in addition to above the other party representing the workmen be kindly directed to produce the Employment Card (in Form XIV) and Service Certificate (in Form XV) in respect of the workmen involved in the present reference for the satisfaction of having their engagement with the respective contractors. And for this act of yours the employer above named shall ever pray."

7. From the aforesaid application it would be evident that no specific prayer was made by the Management except to allow them one month's time for making further attempt for location of the contractors and for direction on the parties representing the workmen to produce Employment Card (in Form XIV) and Service Certificate (in Form XV) in respect of the workmen involved in the reference. Admittedly more than five years have passed from the period of adjournment. Now there is no question to allow time to management to locate the contractors.

8. So far as the production of Employment Card (Form XIV) and Service Certificate (Form XV) of the workmen is concerned, we find no reason as to why the reference case will remained pending for decision on this issue if the workmen do not Intend to produce those documents.

9. Having regards to the facts and circumstances of this case, as it is not desirable to linger the reference case further, we are of the opinion that no further order required to be passed by the Tribunal on the application dated 26.9.96 filed by the Management.

10. However, one month time is granted to the workmen represented by the appellant and the Management represented by the National Coal Workers Congress if any of them intend to produce Employment Card (in Form XIV) and Service Certificate (in Form XV) in respect of the workmen involved in the reference case. They may produce such document by 26th August, 2002. Thereafter, the Tribunal shall proceed on the basis of the evidence on record and will pass an appropriate order after hearing the parties. Even if documents aforesaid were not produced.

11. The order passed by the learned single Judge dated 18.9.1997 passed in C.W.J.C. No. 1190/1997(R) is accordingly set aside.

12. This Letters Patent Appeal stands disposed of with the aforesaid observations and directions. However, there shall be no order as to costs. Appeal disposed of.