
(2013) 12 JH CK 0055
In the Jharkhand High Court
Case No : L.P.A. No. 84 of 2013

Their Workmen, Bihar Colliery Kamgar Union	APPELLANT
Vs	
M/s. Bharat Coking Coal Ltd. and Others	RESPONDENT

Date of Decision : 04-12-2013

Acts Referred:

Citation : (2014) 1 JLJR 338

Hon'ble Judges : R. Banumathi, C.J.; Amitav K. Gupta, J

Bench : Division Bench

Advocate : S.K. Laik, for the Appellant; Ananda Sen and Nagmani Tiwari, for the Respondent

Judgement

1. This L.P.A. has been preferred against the order of the learned Single Judge in W.P.(L) No. 6884 of 2012 declining to issue direction to the respondent-Management to implement the award dated 18.8.1997 passed by the Central Government, Industrial Tribunal No. 1, Dhanbad in Reference Case Nos. 156 of 1994 and 72 of 1995. The brief facts of the case has been mentioned in paragraph 3 of the impugned judgment, which reads as under:

The case has a chequered history. The award in question passed on 18.8.1997 in the aforesaid reference case was subject matter of challenge before the Patna High Court by the management, which was finally dismissed in the year 1999, vide order passed in CWJC No. 7/98(R). According to the petitioner the letters patent appeal preferred against the same by the management was also dismissed by order dated 12.7.1999. The SLP preferred by the management being SLP (Civil) No. 15253/99 was also dismissed, vide judgment and order dated 17.4.2000, Annexure 4. The review against the said order was also dismissed on 8.8.2000, Annexure 5. In the writ petition preferred thereafter by the management being W.P.(L) No. 4189 of 2002, this Court directed the management to implement the award, Annexure-6. In another round of litigation before the Hon'ble Supreme Court being Civil Appeal No. 6651/2003, the Hon'ble Supreme Court directed the workmen to file affidavits before the High

Court for verification of their identity and, thereafter, the High Court was directed to pass appropriate direction with regard to the reinstatement, Annexure-7. Thereafter, on the direction of the High Court documents were submitted by the workmen and the Industrial Tribunal passed an order dated 9.12.2010 directing the management to regularize the workmen as their identification process is completed, vide Annexure 9. Even then the award was not implemented and the petitioner and the management entered into a settlement on 21.2.2011, vide Annexure 10. According to the petitioner though the workmen, who are 112 in numbers, have been regularized thereafter but after some delay of the entering into the settlement. It is the contention of the petitioner that the workmen have, however, now been asked to work in underground mines against surface work, which was being done at the time of original award passed in 1997. The petitioner has, therefore, come before this Court as the representations of the workmen for implementation of the award are not being heeded.

2. The grievance of the appellant is that though the workmen, who are 112 in numbers, have been regularized thereafter but after some delay of entering into the settlement, the workmen were asked to work in underground mines against surface work, which is against the terms of the original award passed in 1997. Further grievance of the petitioner-appellant is that as per the award the workmen are to be paid full back wages but the workmen has been paid only Rs. 1,45,000/-. On those grievances, the appellant has filed the writ petition being W.P.(L) No. 6884 of 2012 to issue directions to the respondent-Management to implement the award dated 18.08.1997 in its true letter and spirit.

3. After hearing the parties, the learned Single Judge dismissed the writ petition observing that after the award passed, the parties have arrived at a settlement on 21.2.2011 and the settlement stipulates that no dispute will be raised either by awardees or by the sponsored union before any legal forum in connection with the implementation of the award. The learned Single Judge further observed and held that since the settlement resolved all the issues for implementation of the award in toto, the writ petitioner is not entitled to any relief and the learned Single Judge dismissed the writ petition.

4. Learned counsel for the appellant submitted that as per the terms of the award the workmen ought to have been regularized and ought to be assigned the work in the surface work and contrary to the terms of the award the regularized workmen are now to perform underground mine work. Further grievance is that even though the award stipulates that all the regularized workmen will be entitled to back wages, the workmen are paid only lumpsum compensation.

5. We have heard, Mr. Ananda Sen, learned counsel for the respondent-Management, who has drawn our attention to the terms of the agreement and submitted that Union had entered into a settlement and having agreed to the terms of settlement now cannot fall back to open the award and seeking its implementation and workmen are stopped from doing so.

6. The matter had chequered history. Various directions were issued by this Court and also by Hon"ble Supreme Court. The parties have arrived at a settlement on 21.2.2011. In the settlement it is clearly stipulated that as against the payment of back wages the members of the union agreed to accept Rs. 1,45,000/- as lumpsum payment as against back wages.

7. Clause (2) of settlement dated 21.2.2011 reads as under:

2). As regard to payment of back wages to the awardees of the award passed by the Central Govt. Industrial Tribunal No. 1, Dhanbad in Ref. No. 156/94, w.e.f. 01.7.1994 to till the date of regularization and in respect of the awardees of the award passed in Ref No. 72/95 w.e.f. 1.6.95 till the date of regularization, the Union agreed to accept Rs. 1,45,000 as lump sum payment against back wages.

8. When the members of the Union agreed to accept the lump sum payment against the back wages it is not open to the appellant to demand the entire back wages. In so far as the contention regarding the underground work assigned to the regularized workmen, in paragraph 6 of the terms of settlement, it is clearly stated that "no dispute will be raised either by the awardees or by the sponsoring union before any legal forum in connection with implementation of this award." When the appellant agreed to abide by the terms of the settlement and further agreed that no dispute will be raised, the appellant cannot seek for implementation of the award. Referring the terms of the settlement, learned Single Judge rightly dismissed the writ petition. We do not find any reason to warrant interference with the order passed by the learned Single Judge. Hence, the L.P.A. is dismissed.