

GAHC010236772015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/150/2015

THE UNION OF INDIA
THROUGH THE GENERAL MANAGER, NF RLY, MALIGAON, GHY-11,
MANAGEMENT OF N.F. RLY, MALIGAON, GHY-11

VERSUS

KUMUD CHANDRA KALITA
THE WORKMAN, RLY GR. NO.160/A, BRICKFIELD COLONY, RANGIA, DIST-
KAMRUP, ASSAM

Advocate for the Petitioner : MS.M PURAKAYASTHA

Advocate for the Respondent : MS.S SULTANA

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 09-02-2023

Heard Mr. B. Chakraborty, learned counsel for the writ petitioner. Also heard Mr. H. Rahman, learned Sr. counsel assisted by Ms. A. Agarwal, learned counsel for the respondent.

By filing this writ petition the award dated 31-01-2014 passed by the learned Central Govt. Industrial Tribunal -cum- Labour Court, Guwahati, Assam in connection with Reference Case No. 2/ 2011 has been put under challenge.

2. The facts of the case, briefly stated is to the following effect. The respondent was serving as Section Engineer (SE) (C&W) posted at the Rangia Railway Station. He was transferred from Rangia to Murkacchaleng on 24-12-2007 by means of an order which provided that his pay scale would be Rs. 6500/- to Rs. 10500/-. However, on the date of such transfer there was no post of Section Engineer at Murkacchaleng carrying the pay scale of Rs. 6500/- to Rs. 10500/-. In view of the above, the respondent did not join the aforesaid post. However, the name of the respondent was struck off from the attendance register at the Rangia office w.e.f. 10-07-2008. Thereafter, a memorandum of charge dated 29-10-2007 was served upon him leading to a disciplinary proceeding being drawn up against the respondent. On conclusion of the disciplinary proceeding the penalty of withholding of two sets of privilege passes was imposed upon the respondent. In view of the above development an industrial dispute arose between the respondent and the petitioner. As such, a reference of the industrial dispute was made by the Ministry of Labour, Govt. of India, New Delhi vide order No. L-41011/122/2010-IR(B-I) dated 13-01-2011 to the Central Govt. Industrial Tribunal. The schedule of the reference is as follows:-

“Whether the action of the Management of N.F. Railway in transferring the post of K.C. Kalita, S.E. (C&W) to a non-sanctioned post & imposition of punishment to carry out a wrongful office order is proper and justified? To what relief the workman is entitled?”

3. Upon consideration of the materials available on record and on hearing the learned

counsel for both the sides, the learned Central Govt. Industrial Tribunal had answered the reference in favour of the respondent and granted the following relief to him:-

“In view of my above discussion and taking into account the decision of the Hon’ble Gauhati High Court as mentioned above, I am of the opinion that the workmen is entitled to 50% of his salary with effect from 10.7.08 i.e. the date of striking out of the name of the workmen from the Attendance Roll of the Office of the Sr. Sectional Engineer (C&W), Rangiya, which I hope, will meet the ends of justice.”

4. Assailing the impugned award dated 31-01-2014, Mr. Chakraborty submits that the respondent was transferred only for a period of one year along with the post he was holding and therefore, there was no justifiable ground for him to refuse to comply with the transfer order. He submits had the respondent joined at Murkacchalleng, he would have been brought back to Rangiya within a period of one year. Mr. Chakraborty, however, submits that the petitioner has already retired from service and therefore, save and except the monetary benefit, no further relief can be granted to him at this stage.

5. Mr. Rahman, learned Sr. counsel for the respondent has, however, strongly refuted the said contention by submitting that his client is still in service.

6. After going through the record, more particularly the award passed by the learned Tribunal, I do not find any good ground to interfere with the same. Since the award of the learned Tribunal is only to pay 50% of the wages of the petitioner with effect from the date on which his name was struck off from the attendance register, i.e. 10-07-2008 till reinstatement and considering the ground on which the aforesaid award has been passed, I do not find any justifiable ground for interference with the same.

7. Insofar as the controversy regarding retirement of the respondent, the said aspect

of the matter would be dealt with as per the entries made in the service book. However, it is made clear that the amount payable to the respondent under the award dated 31-01-2014 shall be calculated w.e.f. 10-07-2008 till the date of his retirement from service or otherwise till the date of his reinstatement.

With the above observation, this writ petition stands disposed of.

JUDGE

GS

Comparing Assistant