

GAHC010257242013



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

Case No. : WP(C)/6760/2013

BOKAJAN CEMENT FACTORY
A UNIT OF CEMENT CORPORATION OF INDIA LTD., BOKAJAN, DIST.-
KARBI ANGLONG, ASSAM, REP. BY MR. S.K. SINGH, SR. MANAGER
SECURITY AND HOD P and A, BOKAJAN CEMENT FACTORY, KARBI
ANGLONG

VERSUS

THE PRESIDING OFFICER and 13 ORS
INDUSTRIAL TRIBUNAL, GUWAHATI, ASSAM.

2:AMBESWAR CHETIA
S/O- RARAYAN CHETIA
VILL.- JYOTINAGAR
P.O.- SUKHANJAN VIA-BOKAJAN
DIST.- KARBI ANGLONG
ASSAM.

3:MAHANANDA PAUL
S/O- U.C. PAUL
VILL.- DIPHU CINEMA HALL
P.O.- DIPHU
DIST.- KARBI ANGLONG
ASSAM.

4:DHELARAM BASUMATARY
S/O- NORESWAR BASUMATARY
VILL.- MANDULIJAN
P.O.- HOWRAGHAT
DIST.- KARBI ANGLONG
ASSAM.

5:PRAHLAD DEORI
S/O- TILSWAR DUWARI
VILL.- EKARATOLI
P.O.- BHANO
DIST.- SIVASAGAR
ASSAM.

6:HEMANTA KUMAR DAS
S/O- K.C. DAS
VILL. and P.O.- DANGURI
DIST.- DIBRUGARH.

7:DEBESH SAHA
S/O- D.C. SAHA
VILL. and P.O.- TIPKAI
DIST.- GOALPARA
ASSAM.

8:MAN SING BEY
S/O- SARKEHAI BEY
VILL.- BORMANTHI
P.O.- BOKAJAN
DIST.- KARBI ANGLONG
ASSAM.

9:ANANTA KR. CHETIA PHUKAN
S/O- M.R. CHETIAPHUKON
VILL.- TITAPATHAR
P.O.- BETNA
DIST.- SIVASAGAR.

10:SUNIT CHETIA
S/O- C.K. CHETIA
VILL.- KAMBARI BALIJAN GRANT
P.O.- AMGURI
SHYAMGAON
VIA-SONARI
DIST.- SIVASAGAR
ASSAM.

11:MIHIR KR. CHAKRABORTY
S/O- PRASANNA CHAKRABORTY
VILL. and P.O.- HANSARA
DIST.- DIBRUGARH
ASSAM.

12:DELIMAN TERANG
S/O- DILIRAM TERANG

VILL. and P.O.- KULIGAON
DIST.- KARBI ANGLONG
ASSAM.

13:LANGTUK HANSE
S/O- SAR-ET HANSE
VILL. and P.O.- KULIGAON
DIST.- KARBI ANGLONG
ASSAM.

14:DILESWAR BARUAH
S/O- DONDESWAR BORUAH
VILL.- NAHARTOLI
P.O.- NIZ KHALOI GUGHURA
DIST.- SIVASAGAR
ASSAM

Advocate for the Petitioner : MR.J ROY

Advocate for the Respondent : MR.A DASGUPTA

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

14.12.2023

Heard Shri J. Roy, learned Senior Counsel assisted by Shri B.P. Sharma, learned counsel for the petitioner. Also heard Shri A.K. Dasgupta, learned Senior Counsel assisted by Shri J.K. Sharma, the learned counsel for the respondent nos. 2 to 14.

2. The challenge in this writ petition is in respect of a an Award dated 31.12.2012 passed by the learned Industrial Tribunal Guwahati in Ref. Case No. 03/2008. The aforesaid Award was on a reference made to the learned Tribunal. For better appreciation, the issues which were referred are extracted herein below:

1. Whether the management of M/S Cement Corpn. of India, Bokajan, Karbi

Anglong is justified to ask for undertaking only from the wage Board V.R.S. Employees at the time of payment of 50% or 100% ex-gratia benefit.

2. Whether the said management is justified to deny the revised pay scale to the wage Board V.R.S. employees who were released from the service in the year 2002 though the pay revision came into effect from 01-04-2000.

3. Whether the management of M/S Cement Corpn. of India, Bokajan, Karbi Anglong is justified to deprive the V.R.S. employees from "NOTICE PAY" though they were released from the service on instant notice.

4. Whether the said management is justified to deny the revised scale benefits to the wage Board V.R.S. Employees who had not submitted any kinds of undertaking before the management at the time of released from the service under V.R.S.

3. The learned Tribunal vide the impugned Award had held the same in favour of the workmen.

4. Shri Roy, the learned Senior Counsel for the petitioner has submitted that amongst the four nos. of issues, Issue Nos. 2 & 4 would be relevant for the purpose of the case. The learned Senior Counsel fairly submits that though initially 50% ex-gratia was granted only for employees who had come under the Industrial Dearness Allowance and not for Wage Board employees, there was an administrative approval of the concerned Ministry whereby the Wage Board employees were also held to be entitled to such ex-gratia payment. Pursuant to the said decision, the issue of such payment arose for 110 numbers of employees who had opted for voluntary retirement during the period 14.12.2001 to 31.01.2002. However, at the same time, there was a pay revision of the year 1997 which came into effect from 01.04.2000. After such

notification, there was a claim from the concerned workmen for giving them the benefit of pay revision.

5. The learned Senior Counsel for the petitioner submits that since ex-gratia payment has already been decided to be paid to the concerned workmen, saddling the Management to make such payment by taking into consideration the revision of pay would amount to double payment. It is submitted that once the benefit of ex-gratia is given to the concerned workmen, the further question of giving the benefits of revision of pay will not arise. It is accordingly submitted that the impugned Award dated 31.12.2012 of the learned Industrial Tribunal be interfered with.

6. *Per contra*, Shri Dasgupta, the learned Senior Counsel for the workman has defended the Award and has submitted that there are no grounds for interference by a writ court.

7. The rival submissions made have been duly considered.

8. An Award passed by a Labour Court or Industrial Tribunal is to be tested with circumspection as the same is done after appreciation of evidence and on the basis of the materials on record. Interference with such Award is however possible only when there is perversity or error apparent on the face of it. Only because of the fact that another view is possible to be taken should not be a ground of intervention with such Award.

8. In the instant case, the ground of challenge is that saddling the Management to give the benefit of the revision of pay of the year 1997 to the concerned workmen would amount to double payment. This Court however is unable to accept the said submission inasmuch as payment of ex-gratia and revision of pay are entirely two

different segments and are not overlapping. Though both the aspects are for the benefit of the workmen, those are under separate heads and will have no connection. This Court is of the view that giving the concerned workmen the ex-gratia by keeping into account the benefit of pay revision is very much within the scheme of the things and cannot be termed, in any manner as illegal or arbitrary.

9. In view of the above, this Court is of the opinion that no sustainable grounds have been able to be made out requiring any interference with the Award dated 31.12.2012 passed by the Learned Industrial Tribunal in Ref. Case No. 3 /2008 and accordingly this writ petition stands dismissed.

10. Let the records be send back forthwith.

JUDGE

Comparing Assistant