

GAHC010108672016



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

Case No. : WP(C)/1693/2016

THE MANAGEMENT OF N.F. RAILWAY
THROUGH GENERAL MANAGER, MALIGAON, GUWAHATI-11.

VERSUS

ASSTT. LABOUR COMMISSIONER CENTRAL and ANR.
OFFICE OF THE DEPUTY CHIEF LABOUR COMMISSIONER, KENDRIYA
SHRAM SADAR, R.K. MISSION ROAD, BIRUBARI, GUWAHATI-16.

2:THE GENERAL SECRETARY
RAILWAY MAZDOOR
UNION PANDU GUWAHATI-12

Advocate for the Petitioner : MR.D K DEY

Advocate for the Respondent : MS. A GAYAN (R-1)

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 25.04.2024

Heard Mr. S. C. Biswas, learned counsel, assisted by Mr. D. K. Dey, learned counsel for the petitioner and Ms. A. Gayan, learned CGC for the respondent No. 1. No one appears for the respondent No. 2 even though the name of Mr. A. Saha has been reflected in the cause list.

2. The petitioner is aggrieved with the issuance of the notice dated

09.11.2015 from the office of the Assistant Labour Commissioner (Central), Guwahati. The said notice pertains to non-compliance of the award dated 25.02.2005 passed in Reference Case No. 11/2004. According to the petitioner, the said award has been complied with way back in the year 2007 and the two workmen concerned have also retired from service. He accordingly submits that the impugned notice should be set aside.

3. Ms. A. Gayan, learned CGC submits that it appears that the award has been complied with.

4. I have heard the learned counsels for the parties.

5. The award dated 25.02.2015 passed by the learned CGIT -cum- Labour Court, Guwahati in Reference Case No. 11/2004, "Management of N.F. Railway, Maligaon vs. the Rail Mozdoor Union", pertains to the workmen Sri Deepak Bhattacharjee and Shri S. R. Bhowmik. The industrial dispute to be decided by the Labour Court is as follows:-

"Whether the action of the management of N.F. Railway, in denying upgradation to Scale of Grade-I in respect of Shri Deepak Bhattacharjee and Shri S.R. Bhowmik Welder is justified? If not, what relief Shri Bhattacharjee and Bhowmik are entitled ?"

6. The learned CGIT -cum- Labour Court, Guwahati disposed of the Reference Case No. 11/2004, vide the award dated 25.02.2005, by holding that it was the responsibility of the Management to move the Railway Board, for sanction or creation of Grade-I and Grade-II posts, to give up-gradation benefit to the workmen concerned. The issue was decided against the Management and in favour of the workmen, as the workmen were entitled to have up-gradation benefits to Grade-I and Grade-II posts.

7. Mr. S. C. Biswas, learned counsel for the petitioner has taken this Court through the Estt. office order No. 8/2007 dated 13.02.2007 & Estt. office order No. 34/2007 dated 09.04.2007 issued by the Assistant Divisional Engineer/MLG, for Senior Divisional Engineer/MLG, which shows that Sri Dipak Bhattacharjee, Welder Grade-II has been promoted to the post of Welder Grade-I and Shri Supriya Ranjan Bhowmic, Welder Grade-III has been promoted to the post of Welder Grade-II.

8. On considering the office order Nos. 8/2007 & 34/2007, which shows that the two workmen have been promoted to Grade-I and Grade-II posts, this Court finds that the award dated 25.02.2005 passed in Reference Case No. 11/2004 by the learned CGIT -cum- Labour Court, Guwahati has been complied with.

9. The Estt. Office order Nos. 8/2007 & 34/2007 are reproduced below as follows:-

“Estt. Office Order No. 8 of 2007

In terms of Railway Board's letter No. PC/III/CRC/6 dated 09-10-03 and 06- 01-04 communicated vide GM(P)/MLG letter No. E/304/0(Re-Structureing) dated 30-10-03 at this office No.E/41/IX/Cadre/General/Pt-IV (Loose) dated 26-10-06 Shri Dipak Bhattacharjee,Welder Gr.II in Scale 4000-6000 under SE(W)/E/PNO is hereby promoted to the post of welder Gr.I in scale Rs. 4500-7000/-against the vacancy occurred as a result of restructuring w.e.f. 01-11-03 and posted in the same station. This has the approval of competent authority."

”Estt. Office Order No. 34 of 2007

In terms of Railway Board's letter No. PC/III/CRC/6 dated 09-10-03 and 06- 01-04 communicated vide GM(P)/MLG letter No. E/304/0(Re-

Structureing) dated 30-10-03 at this office No.E/41/IX/Cadre/General/Pt-IV (Loose) dated 26-10-06 Shri Supriya Ranjan Bhowmic, Welder Gr.III in Scale 3050-4590 under SE(W)/E/PNO is hereby promoted to the post of welder Gr.II in scale Rs. 4000- 6000/-against the vacancy occurred as a result of restructuring w.e.f. 01-11-03 and posted in the same station.”

10. In view of the above, there does not appear to be any justification for issuance of the show-cause notice dated 09.11.2015 for non-implementation of the award of the learned CGIT -cum- Labour Court, Guwahati in Reference Case No. 11/2004. The impugned show-cause notice dated 09.11.2015 is accordingly set aside.

11. This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant