

GAHC010210752015



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

Case No. : WP(C)/1916/2015

PRABIN NATH
S/O LT. CHENIRAM NATH, R/O JATAKAINATH GAON, P.O. JATAKAINATH,
DIST- DIBRUGARH, ASSAM, PIN-785666

VERSUS

THE GENERAL MANAGER, BSNL
BHARAT SANCHAR NIGAM LTD., DIBRUGARH TELECOM DISTRICT,
DIBRUGARH, PIN-786001

Advocate for the Petitioner : MS.N DUTTA

Advocate for the Respondent : MR.Y DOLOI

Linked Case : WP(C)/1681/2015

MISS ANIMA DAS
D/O- SRI KHARGESWAR DAS
R/O- KODOMONI
B.N. ROAD
P.O.- KODOMONI
DIST.- DIBRUGARH
ASSAM.

VERSUS

THE GENERAL MANAGER
BHARAT SANCHAR NIGAM LTD.
DIBRUGARH TELECOM DIST.
DIBRUGARH
PIN- 786001.

Advocate for : MR.D K NATH
Advocate for : MS.J PHUKAN appearing for THE GENERAL MANAGER
BHARAT SANCHAR NIGAM LTD.

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

JUDGMENT

Date : 21-03-2024

The petitioner is aggrieved by the order dated 22.12.2014 passed by the learned Central Govt. Industrial Tribunal-cum-Labour Court, Guwahati (hereinafter referred to as "the Tribunal"), in Reference Case No. 10/2011. By the said impugned order, the learned Tribunal has rejected the application filed by the petitioner for sending the signature of Sri G.P.Chetia, Retired Divisional Engineer (Mobile), Office of the GMTD, BSNL, Dibrugarh in Exhibit-1 along with his specimen signatures to Forensic Science Laboratory (FSL) for expert opinion to determine whether the signature on the certificate dated 29.12.2007(Exhibit-1) is the signature of Sri G.P.Chetia, Divisional Engineer (Mobile), Office of the GMTD, BSNL, Dibrugarh.

1. The case of the petitioner in brief is that she was appointed as a Data Entry Operator in BSNL, Telephone, Mobile, Dibrugarh, on contractual basis in the year 2006 and since then she had been working under BSNL. During her service period in BSNL, she worked in various capacities. This

fact was duly recognised and certified by Sri G.P. Chetia, retired Divisional Engineer (Mobile), BSNL, vide the Certificate dated 29.12.2007 (Exhibit-1 in the Reference Case).

2. But all on a sudden her service has been terminated on 31.03.2009 without assigning any reason.
3. Being aggrieved by the termination of her services, the petitioner filed a petition before the Labour Commissioner (Central) Government of India, Dibrugarh and prayed for his re-instatement. The said matter was subsequently transferred to the Tribunal at Guwahati. It was registered as Ref. Case No. 10 of 2011. During the trial, the petitioner adduced evidence as PW-1. With a view to show that she was an employee of the BSNL, the petitioner exhibited the said certificate dated 29.12.2007 issued by Sri G.P.Chetia retired Divisional Engineer (Mobile), BSNL, as Exhibit-1. The Management also produced one witness; namely, Mr. G.P.Chetia, retired Divisional Engineer (Mobile), BSNL, who issued the said certificate. However, in his evidence, Mr. G.P.Chetia, retired Divisional Engineer (Mobile), BSNL, denied having issued the said certificate. He also denied putting signature on the said certificate dated 29.12.2007.
4. Being aggrieved by such denial, the petitioner filed an application before the learned Tribunal where she made a prayer to send the said certificate dated 29.12.2007 (Exhibit-1) along with the specimen signature of Mr.

G.P.Chetia, retired Divisional Engineer (Mobile), BSNL to the handwriting expert for determination as to whether the said signature is of Mr. B.S. Paul Mazumder or not.

5. The respondent contested and file objection. The respondent contended that the said certificate was not issued by Mr. G.P.Chetia, retired Divisional Engineer (Mobile), BSNL.
6. Upon hearing the parties, the learned Tribunal by an order dated 22.12.2014 has rejected the prayer made by the petitioner. It is against the said rejection order that the petitioner has preferred the present writ petition.
7. Mr. D. Nath, learned counsel for the petitioner made it clear and submits that the limited and the only prayer of the petitioner in this writ petition is that since Sri G.P.Chetia who put his signature on the said certificate (Exhibit-1) denied the same to be his signature, the learned tribunal may be directed to send the said Certificate (Exhibit-1) along with the specimen signatures of Mr. G.P.Chetia, to the FSL for expert opinion and to determine as to whether the said signature in the Exhibit-1 is the signature of Sri G.P.Chetia or not.
8. Mr. B. Pathak, the learned counsel for the respondent submits that by the impugned order dated 22.12.2014, while rejecting the application of the petitioner, the learned Tribunal however, had directed the Management to

produce Mr. G.P.Chetia, retired Divisional Engineer (Mobile), BSNL for obtaining his specimen signature. And in compliance of the subsequent order dated 17.02.2015 passed by the learned Tribunal in the said Reference Case No. 10/2011, Mr. G.P.Chetia, retired Divisional Engineer (Mobile), BSNL, appeared before the Tribunal and gave his specimen signatures. However, after 3 (three) day of giving his specimen signatures, the said Mr. B.P. Chetia expired. Moreover, this Court on 25.03.2015, has stayed the further proceeding of the said Reference Case No. 10/2011. And since then, the matter could not be proceeded further.

9. Having made the above submission, the learned counsel for the respondent fairly acceded to the prayer of the petitioner and submits that the respondent has no objection if the matter is remanded back to the Tribunal with a direction to ascertain the signatures in the said Certificate (Exhibit-1) as to whether the same is the signature of late G.P.Chetia or not. He further submits that such ascertainment may be made by following the procedure as provided under Section 73 of the Indian Evidence Act and/or by sending the same to the FSL for examination by handwriting experts, if required.

10. I have heard the learned counsel for the petitioner Mr. D.K. Nath and Mr.B.Pathak for the respondent. I have also gone through record of the case.

11. Section 73 of the Indian Evidence Act, 1872 provides for comparison of signature, writing or seal and it being relevant to the present cases, the same is reproduced below:

73. Comparison of signature, writing or seal with others admitted or proved. — *In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose.*

The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

[This section applies also, with any necessary modifications, to finger impressions.]

13. Considering the submission made by the parties and in view of the provisions of law under Indian Evidence Act, I am of the opinion that this matter can be remanded back to the Tribunal as prayed. According, the matter is remanded back to the learned Tribunal with a direction to re-consider and decide the issue raised by the petitioner afresh by ascertaining the signature in the Certificate (Exhibit-1) by following the procedure provided under Section 73 of the Indian Evidence Act, and/or if required, the said Certificate along with the

specimen signatures of late B.P.Chetia may be sent to FSL for expert opinion.

14. The entire exercise, as directed above, shall be expedited by the learned Tribunal and complete at the earliest possible time preferably within six months from the date of production of a certified copy of this order before the Tribunal in the Reference Cases.

15. The petitioner may submit a certified copy of this order before the learned Tribunal for necessary compliance.

16. With the above observations and directions, these writ petition stands disposed of.

17. Send back the record immediately.

JUDGE

Comparing Assistant