

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12107 of 1999

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The Tata Iron & Steel Comp.Ltd

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.C.GANGULI

Mr. N.Ganguli

For the Respondent/s : Mr. (SC7)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-03-2015

Heard counsel for the petitioner. No one appears on behalf of respondent no.3, Dr. Naresh Kumar Sinha, though power along with counter affidavit has been filed.

In the present case, petitioner is challenging the order dated 14th September 1999 passed in Misc. Case No. 15 of 1999 whereby and whereunder the labour court has refused to decide the maintainability of the application placing reliance upon D.P.Maheshwari v. Delhi Administration and others reported in AIR 1984 SC 153.

In the present case, Dr. Naresh Kumar Sinha had filed an application before the Labour Court under the provisions of interpretation of Standing Order Nos. 7a, 7c(iii) and 7c(iv) of the certified Standing Orders of TISCO Ltd. In his application he has stated that he was holding all the requisite qualification for being appointed as Personnel Officer. He has Law Degree, he has done Ph.D as well as he had gone for industrial training in TISCO Ltd.

Against the vacancy he had applied for the post of Personnel Officer on four occasions but every time as he was a Bihari candidate, he was not

selected. He has also stated that his selection was not done which violates the natural justice as he being the nephew of one N.P.Sinha, who worked with TISCO for 35 years and still is giving valuable service to the Company comes under the definition of family under Clause 7©(iv) of the Standing Order of the Company. After receipt of notice, the Management of TISCO filed application challenging the territorial jurisdiction as well as jurisdiction on the subject matter.

It appears that the Labour Court has placed reliance on the aforesaid judgment and refused to decide the issue of maintainability of the application.

From the nature of application and the relief sought for, this Court feels that the present petition does not fall under the coverage of D.P.Maheshwari's case (supra) as the dispute goes to root of the case. This Court is of the view that the Labour Court has wrongly refused to decide the maintainability of the case.

In such view of the matter, the impugned order dated 14th September 1999 passed in Misc. Case No. 15 of 1999 is hereby quashed and the matter is remanded back to the Labour Court to decide the case of maintainability of the application itself and if it arrives to a conclusion that the case is maintainable then only the court will proceed to decide the merit of the case.

With the above observation/direction, this petition is allowed.

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(Shivaji Pandey, J)