

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3910 of 1995

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Suresh Tiwary son of Suraj Tiwary, resident of Garer, P.O. Hussainganj,
District Siwan.

.... Petitioner/s

Versus

- 1.The State of Bihar through Presiding Officer, Labour Court, Patna.
- 2.The Management of R.B.H.M. Jute Mills, Katihar through its Managing Director.
- 3.The Enquiry Officer, National Jute Mills Corporation Ltd.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhruv Mukherjee, Sr. Adv with Mr.
Arup Kumar Chingdar, Adv.

For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

19 30-01-2015 Heard learned counsel for the petitioner.

No one appears on behalf of the respondents.

The prayer of the petitioner in this writ application is bereft of all the niceties is confined to setting aside an award dated 31.01.1990, passed by the Presiding Officer, Labour Court in Reference Case No. 20 of 1987.

Learned counsel for the petitioner while assailing the award has basically tried to make out a case that the management, the respondent Corporation was not justified in dismissing the petitioner from service on the ground of a wrong declaration of his date of birth,



because there may have been possibility of clerical error or error otherwise under which the date of birth of the petitioner recorded in the school records and shown in the School Leaving Certificate as 07.01.1942, was recorded in the certificate issued by Bihar School Examination Board as 07.01.1948. He, therefore proceeds that for this alleged misconduct the decision of the management to dismiss the petitioner from service was not only illegal but also disproportionate to the alleged misconduct keeping in view that the petitioner had rendered satisfactory service for a period of almost four years i.e., from 7th of December, 1979 to 29.10.1983, during which he was also confirmed in service by order dated 18.12.1980 (Annexure-1). On this ground learned counsel proceeds to assail the award given by the Labour Court in Reference Case No. 20 of 1987.

Strictly, speaking the jurisdiction of this Court in examining the award passed by the Labour Court under Article 226 of the Constitution of India is very



constricted. It cannot re-appraise the evidence or it cannot take any other view if the possible view was taken by the Labour Court is not perverse. It is in the very limited domain of perversity of the award that this Court can examine the legality thereof.

Keeping in view the aforementioned settled position, when this Court has examined the whole thing it is found that there was deliberate attempt by the petitioner to make misrepresentation as with regard to his date of birth. Admittedly, even as per the petitioner, he got employment in the R.B.H.M. Jute Mill in Katihar on 15.05.1950, and therefore, if he wanted to rely on his either of the date of birth, 07.01.1942, as shown in the School Leaving Certificate dated 10.08.1975, or in the matriculation certificate showing of the year 1971 showing his date of birth dated 07.01.1948, the same could have easily led to one and only one conclusion that the petitioner was giving a false declaration of his date of birth. It is here that the Labour Court has gone into the whole aspect in the light of the evidence lead



and has recorded the concluded finding that as a matter of fact when in the year 1978, the mill was supposed to be taken over by the Government of India, the petitioner had some dishonest intention for continuing in service by making the false representation of his date of birth.

Such view of the Labour Court in the impugned award passed on appraisal of the evidence adduced by the management in course of holding the departmental proceeding cannot be faulted either in fact or in law. As a matter of fact, learned counsel for the petitioner was also very fair in making his submission that he cannot find any procedural fault in the holding of the departmental inquiry as with regard to the aforementioned award against the petitioner.

The only submission of prejudice to the petitioner on account of alleged non supply of the inquiry report as stated in the order of dismissal of the petitioner will also be of no avail because law in this regard has been settled by the Constitution Bench of the Apex Court in the case of ***Managing Director, ECIL, Hyderabad and Ors vs B.***

Karunakar and Ors, reported in ***1993(4) SCC 727***, making the case of Ramzan Khan water-shed for invoking this issue of non supply of inquiry report.

Thus for the reasons indicated above the petitioner who had happily remained out of service since, 1983, now after more than 32 years of his being removed from service cannot even ask for reconsideration on the ground of punishment being excessive. Let it be noted that not only the Corporation itself has become dead and defunct but even the petitioner now has also attained the age of more than 65 years and therefore, when this court has found that there was no flaw in the departmental inquiry, nor the order of the Labour Court can be faulted in any manner, it has to be essentially held that this writ application has no merit.

It is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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