

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3556 of 2011

M/S Holdwell Component Pvt. Ltd., its registered Office At 18, R.N. Mukherjee Road, 6th Floor, Kolkata through its authorized Signatory, Ajay Kumar Saraf S/O Shri Sita Ram Saraf, Resident of 369-A, S.N.Roy Road, P.S-Behala, Kolkata.

.... Petitioner/s

Versus

1. The East Central Railway through its General Manager having its Office Situated at Hajipur, District- Vaishali
2. The General Manager(Engineering), East Central Railway, Hajipur, District- Vaishali
3. The Dy. Chief Engineer/ TSP, East Central Railway, Hajipur, Vaishali

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Alok Kr. Agrawal
For the Respondent/s : Mr. Madhu Prasun

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 20-05-2015

Heard Mr. Alok Kumar Agrawal, learned counsel appearing on behalf of the petitioner and Mr. Madhu Prasun, learned counsel appearing on behalf of the respondents.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the orders/ communications, both dated 23.12.2010, as contained in Annexure-12 and 12/A to the writ petition, issued under the signature of the respondent no.3, whereby the claims raised on behalf of the petitioner have been mechanically rejected by cryptic orders.

3. It is not in dispute that the petitioner had moved earlier before this Court in C.W.J.C. Nos. 5112 of 2009 and 5166 of 2009 challenging the actions/orders of the respondent East Central Railway and its functionaries, which were prejudicial to the petitioner. Both the writ petitions were heard together and were disposed of by a



common order dated 11.01.2010 (Annexure-9). The orders passed by the authority of the respondent East Central Railway were set aside and quashed, and the matters were relegated to the respondents for passing a fresh order in accordance with law after giving an opportunity of hearing to the petitioner. The impugned orders/communications have been passed in view of the aforesaid remand order.

4. Learned counsel appearing on behalf of the petitioner has rightly pointed out that both the impugned orders/communications dated 23.12.2010 (Annexure-12 and 12/A) have not only been passed mechanically, rather they are cryptic and non-speaking. No valid reasons have been recorded for rejecting the claim raised on behalf of the petitioner.

5. Learned counsel appearing on behalf of the respondents has tried to support the impugned orders by referring to certain averments made in the counter-affidavit filed on behalf of the respondent no. 1 to 3 and thereby he has tried to supplant the reasons for coming to such conclusions.

6. I am afraid, the decision taken/ order passed by the authority cannot be permitted to be supplanted by way of filing counter-affidavit, rather the action taken/ order passed by the authorities can be justified by filing counter-affidavit and by producing supporting documents. On the face of it, this Court finds that the impugned orders/ communications dated 23.12.2010 are cryptic and non-speaking one, and have been passed mechanically without recording valid reasons for coming to such conclusions.

7. For the reasons recorded above, the impugned orders/communications dated 23.12.2010 issued by the respondent no.3, as contained in Annexure-12 and 12/A are hereby set aside and quashed.

However, the respondents shall be at liberty to pass a fresh reasoned order strictly in accordance with law.

8. The writ petition stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

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