

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11566 of 2000

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The Bihar State Road Transport Corporation through its Administrator, Pariwahan
Bhawan, Birchand Patel Path, Patna

.... Petitioner

Versus

1. The State of Bihar
2. Ramavtar Singh son of late Kalim Singh, resident of village-Kaluahi, P.O.
Kaluahi, District- Madhubani
3. Presiding Officer, Labour Court, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. P. Kr. Verma, Sr. Adv.
Mr. Radha Madhav, Adv.
Mr. Jahan Ara, Adv.
For the State : Mr. Manindra Kishore Singh, S.C.-VI
Mr. Manish Kumar-3, A.C. to S.C.-6

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
Date: 06-07-2015

Heard learned senior counsel for the petitioner. There is
no representation on behalf of the contesting opposite party no. 2.
Learned counsel for the State of Bihar is present.

2. The Bihar State Road Transport Corporation, Patna
through its Administrator has filed this writ application, seeking
quashing of the award dated 07.09.1999 passed by the learned
Presiding Officer, Labour Court, Muzaffarpur in Reference Case No.
04 of 1987, by which reinstatement of the petitioner in the service of
the Corporation with full back wages and other privileges, has been

ordered.

3. Subsequent to notice issued by this Court, the respondent no. 2 has entered appearance and has also filed counter affidavit. A reply to the said counter affidavit has been filed on behalf of the petitioner.

4. From the pleadings on record, it appears that certain facts are not in dispute. The respondent no. 2 was an employee of the Corporation and at the relevant point of time he was working as a Conductor in the Corporation. On the charge of misconduct alleged to have been committed by him, a departmental enquiry was held. The disciplinary authority by an order dated 07.06.1965, dismissed him from the service of the Corporation. The petitioner preferred appeal against the order of dismissal before the appellate authority, which was dismissed by an order dated 16.05.1967. Nearly 14 years thereafter, he raised an industrial dispute against dismissal of his service from the Corporation on 15.01.1981. A reference was made accordingly for adjudication of the industrial dispute, on 11.03.1987.

Following was the dispute referred by the competent authority:

“Whether termination of service of Sri Ram Autar Singh, Conductor, Bihar State Road Transport Corporation, Muzaffarpur is justified? If not, whether he is entitled to reinstatement and, or any other relief ?”

5. The Labour Court, Muzaffarpur, by its award dated 07.09.1999 held termination of service of respondent no. 2 from service of the Corporation to be illegal and directed for his reinstatement with full back wages and privileges.

6. The said award dated 07.09.1999 is under challenge in the present writ application filed by the Corporation. The present writ application was filed on 17.11.2000. In the counter affidavit filed on behalf of the respondent no. 2, a plea has been taken that as the Corporation was not implementing the said award dated 07.09.1999, he had to file a writ application before this Court being C.W.J.C. No. 12970 of 2000, which was disposed of by an order dated 13.12.2000, a copy of which has been brought on record by way of Annexure-A to the counter affidavit. This is to be kept in mind that the said counter affidavit was filed on 05.03.2002 wherein he referred to passing an order of this Court dated 13.12.2000 in C.W.J.C. No. 12970 of 2000. By the said order dated 13.12.2000 (Annexure-A to the counter affidavit), this Court directed the Corporation to dispose of representation of respondent no. 2 for implementation of the award and see to it that the award was implemented.

7. This Court had also observed in the said order dated 13.12.2000 that the respondent no. 2 had required to proceed in



accordance with law to prosecute the authority concerned, who was guilty of not implementing the award. Before passing of the order of this Court dated 13.12.2000, disposing of C.W.J.C. No. 12970 of 2000, this Court by an interim order dated 20.11.2000 passed in the present case had directed for stay of the operation of the impugned award passed by the Labour Court, Muzaffarpur. In the reply filed by the Corporation to the counter affidavit filed by respondent no. 2, it has been stated that once the Corporation learnt about an order having been passed by this Court dated 13.12.2000 in C.W.J.C. No. 12970 of 2000 for implementation of the said award dated 07.09.1999, they filed an application for modification of the order of this Court dated 13.12.2000 by filing M.J.C. No. 455 of 2001. This Court disposed of the said modification application by an order dated 20.03.2001, which has been brought on record by way of Annexure-3 to the reply, observing that since the award itself was under challenge, there was no need of complying with the order dated 13.12.2000 passed in C.W.J.C. No. 12970 of 2000. The fact that the order of this Court dated 13.12.2000 passed in C.W.J.C. No. 12970 of 2000 was subsequently modified by an order dated 20.03.2001 passed in M.J.C. No. 455 of 2001, has not been stated in the counter affidavit filed on behalf of respondent no. 2 on 05.03.2002. This Court deprecates the conduct of respondent no. 2, in this regard.



8. It is the contention on behalf of the petitioner that the dispute raised by respondent no. 2 nearly 14 years after rejection of his appeal by the appellate authority against the order of dismissal, could not have been entertained. It is their case that the reference itself was not maintainable in view of so much of delay in the light of Supreme Court decision in the case of *M/s. Shalimar Works Limited v. Their Workmen (AIR 1959 SC 1217)*.

9. Learned senior counsel appearing on behalf of the petitioner has also placed reliance upon a decision of this Court in case of *Sahdeo Pandey and others vs. State of Bihar and another reported in 1996(1) BLJ 227*.

10. Learned senior counsel appearing on behalf of the petitioner appears to be right in his submission that there is absolutely no explanation for delay of nearly 14 years in raising industrial dispute, by respondent no. 2. There is no explanation for such delay even in the counter affidavit filed on behalf of respondent no. 2.

11. In case of *M/s. Shalimar Works Limited v. Their Workmen (AIR 1959 SC 1217)*, the Supreme Court held that though there was no limitation prescribed for reference of disputes to an Industrial Tribunal under the Industrial Disputes Act, 1947, it was only reasonable that such disputes be referred as soon as possible, after they have arisen. In the said case, delay of four years in referring

the dispute to the Industrial Tribunal, though in the facts and circumstances of that case, was held to be uncondonable. The relevant portion of paragraph no. 13 of the said decision is relevant and is being extracted hereinbelow:-

“It is true that there is no limitation prescribed for reference of disputes to an Industrial Tribunal; even so it is only reasonable that disputes should be referred as soon as possible after they have arisen and after conciliation proceedings have failed, particularly so when disputes relate to discharge of workmen wholesale, as in this case. The industry has to carry on and if for any reason there has been a wholesale discharge of workmen and closure of the industry followed by its reopening and fresh recruitment of labour, it is necessary that a dispute regarding reinstatement of a large number of workmen should be referred for adjudication within a reasonable time. We are of opinion that in this particular case the dispute was not referred for adjudication within a reasonable time as it was sent to the Industrial Tribunal more than four years after even re-employment of most of the old workmen. We have also pointed out that it was open to the workmen themselves even individually to apply under S. 33-A in this case; but neither that was done by the workmen nor was the matter referred for adjudication within a reasonable time. In these circumstances, we are of opinion that the tribunal would be justified in refusing the relief of reinstatement to avoid dislocation of the industry and that is the correct order to make.”

12. Similar view has been taken by this Court in case of

Ms. Tewary Bechar & Company, Patna Vs. State of Bihar and others BLJ 1996(1) wherein this Court held that a belated reference should not be entertained.

13. In view of the admitted facts of the case as noted above and the discussions made and in view of the law laid down by the Supreme Court in case of ***M/s. Shalimar Works Limited*** (supra) and the decision of this Court in the case of ***Ms. Tewary Bechar & Company, Patna*** (supra), the impugned award passed by the Tribunal dated 07.09.1999 by Labour Court, Muzaffarpur in Reference Case No. 04 of 1987, by which the respondent no. 2 has been ordered to be reinstated in service of the Corporation with full back wages and other privileges cannot be sustained and is, accordingly, quashed.

14. This application is, accordingly, allowed.

15. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J.)

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