

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19085 of 2008

Sajjan Kumar Verma son of Sri Mahabir Prasad Verma, R/o- C/o-Sri Basant Lal Mahabir Prasad Verma, Purani Bazar, Muzaffarpur-842001.

.... Petitioner/s

Versus

1. Bharat Wagon and Engineering Company Ltd. having its registered and Head Office at C Block, 5th Floor, Maurya Lok complex, Patna 800001 through its Managing Director.
2. Bharat Wagon and Engineering Company Ltd., Muzaffarpur Unit Post Box No. 61, Muzaffarpur-842001 through its Unit Incharge.
3. The Incharge (P&A), Bharat Wagon and Engineering Company Ltd., Muzaffarpur Unit Post Box No. 61, Muzaffarpur-842001
4. The Deputy General Manager, Bharat Wagon and Engineering Company Ltd., Muzaffarpur Unit Post Box No. 61, Muzaffarpur-842001 through its Unit Incharge.

Respondent/s

Appearance :

For the Petitioner/s : Mr. Pushkar Narain Shahi, Sr. Adv.
Mr. Gaurav Kumar Mishra, Adv.
Mr. Sanjeet Kumar Singh, Adv.
Mr. Patanjali Rishi, Adv.
For the Respondent/s : Mr. Raj Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 21-01-2015

Heard learned counsel for the petitioner and learned counsel for the Bharat Wagon and Engineering Company.

In this case, the petitioner is an employee of the aforesaid Company, has been working as a workman (Grade-IV) was offered promotion on the supervisory category in the pay scale of Rs. 2800 to 4930 with effect from 1st April 2007 with the rider mentioned in clause 7 which is as follows:

“In the event, it is found that you are taking part in Union activities, you will be responsible for the

disciplinary action as per the rules of the company of you will be reverted in your substantive post”.

This Court vide order dated 8th September 2009 granted liberty to the petitioner to join the promotional post subject to the result of the present case.

The counsel for the petitioner has raised grievance that the while granting promotion, the management has imposed the restriction violative of Article 19 (1) (c) of the Constitution of India which is a very important fundamental right to form association and the petitioner cannot be deprived to go along with Union of workman to raise their grievance when they are oppressed by the respondent-authority. He further submits, working as a workman, he has a right to form association as provided under the Trade Union Act as well as Industrial Disputes Act. Only because he has been brought to the supervisory category, he cannot be deprived of very important right. Every citizen has a right to form association and to raise grievance through their respective association.

The counsel for the Company submits that when an employee is no longer a workman, he cannot avail the same benefit. Workman and officers constitute two different classes, rights and privileges for them are quite different. The petitioner cannot claim the same right as that of workman while enjoying

the status of supervisory category.

Having considered the rival contentions of the parties, as the petitioner was promoted to the supervisory category i.e. non-unionised category, he cannot claim the same right, privilege and similar benefit what he is getting as a workman. Certain more responsibility is attached on promotion to the higher category. The provisions of the Industrial Disputes Act and the Trade Union Act do not apply to the persons who are no longer a workman.

This Court does not find any error in the rider that has been attached in the letter of promotion and accordingly, this petition is not sustainable in law. However, liberty is given if the petitioner intends to join higher post as has been offered, he may approach the authority concerned and the authority will consider his case and take a decision in accordance with law.

With the above observation and direction this petition is dismissed.

(Shivaji Pandey, J)

Mahesh/-

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