

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.160 of 2010

In
Letters Patent Appeal No. 925 of 2008

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Sita Ram Modi S/O Late Ramcharan Modi R/O Pithdauri, Sultanganj, P.S.
Sultanganj Distt.- Bhagalpur At Present Posted As Electrician, M/S Arun
Chemical Industries Pvt. Ltd., Sultanganj, P.S. Sultanganj, Distt.- Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Bhagalpur, Distt.- Bhagalpur
3. The District Certificate Officer, Bhagalpur, Distt.- Bhagalpur
4. The District Magistrate, Patna, Distt.- Patna
5. The District Certificate Officer, Patna, Distt.- Patna
6. M/S Arun Chemical Industries Pvt. Ltd., Sultanganj Through The
Managing Director, M/S Arun Chemical Industries Pvt. Ltd., Sultanganj,
Distt.- Bhagalpur
7. Sri Ramakant Sharma, Director, M/S Arun Chemical Industries Pvt. Ltd.
Sultanganj, Distt.- Bhagalpur C/O Sri Baidynath Ayurved Bhawan,
Chiraiyatand Patna-20 Baidyanath Road, Patna-20
8. Smt. Madhu Sharma, Director, M/S Arun Chemical Industries Pvt. Ltd.
Sultanganj, Distt.- Bhagalpur R/O At C/O Sri Baidynath Ayurved Bhawan,
Chiraiyatand Patna-20, Baidyanath Road, Patna-20

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Krishna Prasad
Mr. Rabindra Prasad Singh, Advocates

For the Respondent/s : Mr. Madhuresh Prasad
Mr. Abhay Shankar and Shyameshwar Kumar
Singh, Advocates

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

13 09-03-2016 The present application is for review of the order
passed by a Division Bench of this Court on 25th November,
2008, whereby the Letters Patent Appeal against the order of
the learned Single Judge setting aside the claim of the
appellant under Section 33C (2) of the Industrial Disputes

Act, 1947, remained unsuccessful.

The service of the appellant was admittedly terminated by the management of the respondent-Industries. The order of termination of the appellant is said to be withdrawn by the Management. Thereafter, the appellant filed an application under Section 33C (2) of the Industrial Disputes Act, which was allowed by the learned Labour Court holding that the appellant is entitled to be paid a sum of Rs.2,85,490.43p. The said order of the Labour Court was quashed by the learned Single Judge.

Being aggrieved, the appellant filed Letters Patent Appeal No. 925 of 2008 which was dismissed on the ground that proceedings under Section 33C (2) of the Industrial Disputes Act are in the nature of execution. In the absence of any determination of the claim of the appellant by any Court or Tribunal, he cannot be said to be entitled to invoke the jurisdiction of the Labour Court under Section 33C (2) of the Industrial Disputes Act.

We do not find any error apparent on record which may warrant interference by this Court in the order dated 25th November, 2008, passed by the Division Bench in LPA No. 925 of 2008. There is no determination of wages payable to the appellant by any Court, Tribunal or any authority. In the absence of any determination of the claim, the

proceeding under Section 33C (2) of the Industrial Disputes Act could not have been maintained. The Hon'ble Supreme Court in the case of **Municipal Corporation of Delhi vs. Ganesh Razak**, reported in **(1995)1 SCC 235**, has held that proceedings under Section 33C (2) of the Industrial Disputes Act, 1947 are in nature of execution and the claim of wages cannot be raised for the first time before the Labour Court in proceedings under Section 33C(2) of the Industrial Disputes Act, 1947.

In that view of the matter there is no error apparent on record warranting interference in the order passed by the Division Bench in LPA No. 925 of 2008.

This civil review application is accordingly dismissed.

(Hemant Gupta, J)

(Kishore Kumar Mandal, J)

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