

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19147 of 2015

- =====
1. Sadanand Mishra son of Late Ram Swaroopishra, resident of village & Post – Mahadeo Simaria, P.S. - Sikandra, District - Jamuui.
 2. Yogendra Prasad son of Late Sudarsan Prasad, resident of village - Akelapur, Post -Saranpur, P.S. - Naubatpur, District - Patna.
 3. Pashupati Nath Upadhaya son of Late Nepal Upadhaya, resident of village – Babhangama, P.O. - Guri, P.S. - Barhara, District - Bhojpur.
 4. Keshav Prasad Singh son of Late Ram Parikham Singh, resident of village – Amarapura, P.S. - Paliganj, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Labour & Employment, New Secretariat, Patna - 1.
2. The Bihar State Road Transport Corporation through its Administrator, Birchand Patel Marg, Patna
3. Administrator, Bihar State Road Transport Corporation, Paribhawan Bhawan, Birchand Patel Marg, Patna.
4. Financial Advisor-cum-Chief Accounts Officer, Bihar State Road Transport Corporation, Pariwahan Bhawan, Birchand Patel Marg, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	: Mr. V.N. Sahay, Advocate
	: Mr. Arun Kumar Shrivastav, Advocate
For the State	: Mrs. Binita Singh, S.C.-28
	: Mr. Vivek Anand Amrithesh, A.C. to S.C.-28
For the B.S.R.T.C.	: Mr. P.K. Verma, Sr. Advocate
	: Mr. L.K. Tiwary, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-04-2017

In the present writ application preferred under Article 226 of the Constitution of India a prayer has been made to direct the respondents to implement the Award dated 30.01.2014 passed by the Labour Court, Patna, which was pronounced by the Labour Court on 19.05.2015 by which the Labour Court has directed the respondent nos.2 to 4 to reinstate the workmen involved in the reference case



with back wages from the date of suspension and the idle period up to the date of their superannuation from the date of Award.

2. It is submitted by the learned counsel for petitioner that petitioner no.1 was appointed as a Driver on 17.01.1970 and petitioner nos.2 to 4 were appointed as Helper in the organization of respondent no.1 on different dates, but all were posted at Phulwari Sharif Depot of Patna Division of the Bihar State Road Transport Corporation (for short 'the BSRTC') on 14th July, 1999.

3. All the petitioners were dismissed by the Management on the basis of charge-sheet on which a domestic enquiry was conducted by the Management for which an industrial dispute was raised by the workmen and after following the procedure the Government of Bihar referred the following dispute for adjudication to the Labour Court, Patna.

“Whether the termination of services of Sri Sadanand Mishra and other three workmen by Management, Bihar State Transport Corporation is justified? If not, what relief they are entitled to.”

4. After hearing the parties, the Labour Court answered the reference made by the State on the following terms:-

“Accordingly I find and hold that the termination of services of Sri Sadanand Mishra and other three workmen namely Pashupati Nath Upadhya, Keshav



Prasad and Yugeshwar Prasad by management Bihar State Transport Corporation is not justified. Hence the termination order dt. 23.06.2001 passed by the Administrator, BSRTC, Patna (Ext.-9) against all these four delinquent workmen is accordingly set-aside.

On the point of relief it is essential to mention here that when the delinquent workmen examined before this court they all have been completed the age of their superannuation of service. It is admitted by the workmen in their deposition. As such all these four workmen shall be deemed to be in service from the date of their termination upto the date of retirement. Now all workmen are entitled to get full back wages from the date of their suspension and the idle period upto the date of their superannuation. The workmen are also entitled to get their all retirement benefit from the management.”

5. The aforesaid Award of the Labour Court was pronounced under Section 17A of the Industrial Disputes Act, 1947 (for short ‘the I.D.Act’) by the Labour Court on 19.05.2015.

6. It is submitted by the learned counsel for the petitioner that though the said Award has not been challenged by the respondent B.S.R.T.C., the same has not even been implemented till date.

7. Per contra, learned counsel appearing for the respondent B.S.R.T.C. raised a preliminary objection with regard to maintainability of the present writ application. He submitted that the



instant writ application has been filed for compliance of the Award passed by the Labour Court for which the petitioners have statutory remedy under Section 11 of the I.D.Act. He submitted that in view of the express provisions prescribed under Sub Sections (9) and (10) of Section 11 of the I.D.Act, the petitioner ought to have approached the Labour Court instead of approaching this Court for issuance of writ against the respondents.

8. I have heard learned counsel for the parties and perused the record.

9. Since the writ application has been filed for execution of the Award passed by the Labour Court, it would be useful to refer to Sub Sections (9) and (10) of Section 11 of the I.D. Act which read as under:-

“Section 11(9). Every award made, order issued or settlement arrived at by or before the Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under Order 21 of the Code of Civil Procedure, 1908 (5 of 1908).

(10). The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”



10. On a careful perusal of the above noted provisions, in the opinion of this Court, learned senior counsel for the B.S.R.T.C. has rightly submitted that the petitioners ought to have approached the Labour Court, Patna for execution of the Award if the same has not been implemented by the employer.

11. In view of the availability of an efficacious statutory remedy to the petitioners for the redressal of their grievances, I am not inclined to entertain the present writ application.

12. Accordingly, it is dismissed. No costs.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.04.2017
Transmission Date	

