

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15128 of 2015

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Brahmadeo Yadav S/o Late Baldeo Gope resident of Tara Chak, P.O. and P.S.
Danapur Cantt., District - Patna, Pin Code - 801503.

.... Petitioner

Versus

1. Union of India through Secretary of Defence, New Delhi.
2. The Presiding Officer Central Government, Industrial Tribunal No. 2, Dhanbad in the State of Jharkhand.
3. Regional Labour Commission, Ministry of Labour Govt. of India, Maurya Lok Complex, 2nd Floor, Patna.
4. The Chief Executive Officer Cantonment Board, Danapur Cantonment District - Patna.
5. The President cum Brigadier Cantonment Board, Danapur Cantt., District - Patna.
6. The General Officer, Command in Chief, Head Quarter Central Comman, Lucknow Cantonment Kariappa Road, Lucknow - 226002.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Raj Ballabh Prasad Yadav, Advocate
Mr. Jitendra Kumar, Advocate

For Respondent nos.1 to 3 : Ms. Nivedita Nirvikar, CGC

For respondent No. 4 : Mr. Amarendra Nath Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-03-2017

This writ application has been filed for issuance of a
writ in the nature of *certiorari* for quashing of the award dated



20.05.2015 passed in Reference Case No. 27 of 2011 by the Presiding Officer, Central Government Industrial Tribunal No. 2 at Dhanbad as contained in Annexure-10 to the present writ application whereby the reference made by the Central Government in exercise of power conferred under Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short 'I.D. Act, 1947) to the effect "*whether the action of the Management of Danapur Chawani Parishad, Danapur Cantt. by terminating the service of Shri Brahmdeo Yadav and Shri Rajan Kumar without observing the local provisions u/s 25 F laid down is proper and justified ? Whether the workers are entitled for reinstatement with full back wages ? What relief they are entitled to ?*" has been answered against the petitioner workman and one another in the following manner :-

“In result, it is hereby, in the terms of the Reference responded and accordingly awarded that since both the alleged workmen Brahmdeo Yadav and Ranjan Kumar being irregular Daily Wagers for a few days had no service as the employees of the Management of Danapur Cantt., so no question arises about the action of the Management for terminating their services nor the compliance of the provisions under Section 25 F of the I.D. Act, 1947 holds good with the instant Reference. Hence, the workers



who were irregular Casual Daily Wagers for a few days are not entitled for reinstatement with full back wages nor to any relief whatsoever.”

2. It is contended by Mr. Raj Ballabh Prasad Yadav, learned counsel for the petitioner that the petitioner was appointed as ‘Safaiwala’ against permanent vacancy advertised by the Management of Danapur Cantonment Board in Daily Hindustan dated 28.09.2004 and since then he had been continuously rendering his service to the Management. He submitted that since the petitioner demanded wages according to 6th Pay Commission, Management illegally terminated him in violation of the mandatory provisions of Section 25F of the I.D. Act, 1947.

3. On the other hand, learned counsel appearing on behalf of respondent no. 4 submitted that at no point of time the petitioner was a workman of the Management of Cantonment Board, Danapur. He submitted that the petitioner failed to produce the selection/appointment letter, the date of appointment, any proof of payment, the termination letter etc. before the Tribunal. He submitted that there is no selection or appointment letter or joining report annexed anywhere nor even the post or the date of actual appointment is mentioned anywhere even in the writ petition. He submitted that the muster roll produced by the petitioner would also



not indicate that he was present for 240 days in one calendar year. He contended that respondent Cantonment Board used to engage the daily wage workers through private contractors selected annually by largely publicized bid. In the situation, the petitioner worked for numerous works intermittently as daily wager for a few days under the contractor. He remained worker of the contractor and not of the respondent Cantonment Board.

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

5. I find that the evidences led on behalf of the parties have been correctly appreciated by the Tribunal while passing the impugned award.

6. The findings of the Tribunal are as under :-

“5. On perusal of the materials, I also find that the Pay & Acquaintance Rolls of Permanent/ Temporary Entire Establishment of Danapur Cant. Board for the month of March, June, Sept, Dec., 2007, March, June, Sept., Dec. 2008, Jan., Feb., 2009 (Extt. M-1-1/9 series), and those for Mar, June, Aug., Sept., Dec., 2010 prove that both the daily wagers Brahmdeo Yadav and Ranjan Kumar were never an employee of the OP/Management. The official letters and Notes (Extt. M2 series) conclusively prove the fact that the instant Chawani Parishad



Karamchari Sangh is not a recognized Union and nor affiliated to All India Cantonment Board Employees Federation (AICBEF). The two copies of the statement of Account of the Management for Oct. & Aug., 2011 (Ext. M 3 series) prove the payment of Rs.1,900/- through their cheques each to both the instant workmen for their casual work. In view of the aforesaid facts & findings, it stands quite clear that both the workmen were out and out irregular Daily Wagers for a few days only and an unengagement of any of both the workers as a Daily Wagers by the Management does not mean in any way retrenchment or termination of them by the Management under the provisions of I.D. Act, 1947. On the consideration of the factum and legume status of the instant case, I am of the view that the arguments of Mr. R. R. Prasad, Ld. Counsel for the OP/Management outweighs that of Mr. D. K. Verma, the Ld. Advocate for the Union/Workmen. Besides the instant Union being an unrecognized one has no locus standi to raise this reference.”

7. Regard being had to the fact that the petitioner failed to bring any evidence on record in order to prove his case that he was appointed by the Management of Cantonment Board, Danapur and had rendered continuous service for 240 days in a



calendar year, no fault can be found with the order impugned.

8. Accordingly, the writ application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.03.2017
Transmission Date	NA

