

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO. 743 OF 2017

IN

WRIT PETITION NO.1538 OF 2014(D)

(CHIEF GENERAL MANAGER, WCL, CHANDRAPUR...VS.. PRESIDENT, LALZENDA COAL MINES
MAZDOOR UNION (CITUC), CHANDRAPUR & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P.Dharmadhikari, Sr. Advocate a/b. Shri Rohan Chandurkar,
Advocate for Applicant-Original Petitioner.
None for the Non-applicants/Respondents.

CORAM : Z.A.HAQ, J.

DATED : AUGUST 04, 2017.

Heard.

The original petitioner seeks review of the
judgment passed by this Court on 14th September, 2015.
None appears for the non-applicants/ respondents.

Civil Application (CAO) No.251 of 2017 was filed
by the applicant praying for condonation of delay in filing the
review application. By the order passed on 24th February,
2017 it was directed that notice of Civil Application (CAO)
No.251 of 2017 be issued to the non-applicants/ respondents
and alongwith it copy of Review Petition Stamp No. 24583 of
2016 should also be served. The notice was served on the
respondent No.1 and by order dated 18th July, 2017 delay in
filing review application is condoned. On 18th July, 2017
none had appeared for the non-applicant/ respondent No.1.

Now, this Misc. Civil Application is listed. None
appears for the non-applicants/ respondents. As recorded

above, the Notice of Civil Application (CAO) No. 251 of 2017 and copy of this review petition were served on the non-applicant/ respondent No.1 and it is aware about the pendency of this Misc. Civil Application.

The application is taken up for hearing.

It is submitted that the judgment passed by this Court on 14th September, 2015 dismissing the writ petition is passed on the basis of what is recorded in paragraphs 5 and 6 of the award passed by the Tribunal and it is observed in the judgment that the findings recorded in paragraphs 5 and 6 of the award passed by the Tribunal are proper, however, what is recorded in paragraph Nos. 5 and 6 of the award passed by the Tribunal are not findings but are submissions made on behalf of the workmen. It is pointed out that the findings are recorded in paragraph 8 of the award. It is argued that the Tribunal has committed an error in recording that the workmen in question were not given option of conversion from Piece Rated to Time Rated Workers. It is submitted that it had been the specific case of the employer as is evident from the pleadings in the written statement filed before the Tribunal that the workmen in question had applied pursuant to the notice issued by the employer and they were selected for the post of Dumper Operator after the process was followed and thus, the workmen in question exercised option of applying for conversion from Piece Rated to Time Rated Workers and they were not appointed as Dumper Operators against their wishes.

I find that these relevant aspects are not considered/ dealt with while delivering the judgment of

which review is sought. There is an error apparent on the face of record and therefore, the prayer made in this application is required to be granted.

Hence, the following order:

- i) The judgment passed in Writ Petition No. 1538 of 2014 on 14th September, 2015 is reviewed and recalled.
- ii) The writ petition is restored.
- iii) The Miscellaneous Civil Application is allowed in the above terms.

Issue notice of writ petition to the respondents, returnable on 4th October, 2017.

JUDGE

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