

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14456 of 2014

=====

Safiullah S/o Md. Habibur Rahman Village Marhia, P.O. & P.S. Lauriya, District
West Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Labour Resources,
Government of Bihar, New Secretariat, Patna.
2. The Managing Director, Bihar State Sugar Corporation, Udyog Bhawan
(Vikash Bhawan), Patna.
3. The Collector, Bettiah, West Champaran.

.... Respondent

=====

Appearance :

For the Petitioner/s : Mr. Satyendra Krishna Prasad, Advocate
For the Respondent/s : Mr. Manish Kumar GP-8

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-08-2018

The petitioner has filed the present writ petition for
implementation of the award dated 28.08.2007 passed by the learned
Presiding Officer, Labour Court, Motihari in Reference Case No. 1
of 1997.

2. The case, in brief, is that the Government in exercise of
powers conferred under Section 10(1)(C) of the Industrial Disputes
Act, 1947 (for short 'the Act') referred the dispute between
management and workman to the Labour Court vide notification
dated 16th October, 1996 for adjudication on the following term of



reference :-

“Whether the termination of services of Shri Md. Safiullah , Ticket No.-96, Mazdoor M/S S. K. G. Distillery, Lauriya, West Champaran is justified. If not, what relief the workman is entitled to ?”

3. Accordingly, Reference Case No. 1 of 1997 was instituted in the Labour Court, Motihari, East Champaran. During pendency of the proceedings, Bihar State Sugar Corporation Unit Lauriya Distillery was made respondent by the Labour Court, Motihari on the petition of the workman. After hearing the case and considering the evidences, documents as well as depositions of the witnesses, the learned Presiding officer passed his award dated 28.08.2007 whereby and whereunder it has been held that the charges of misconduct do not stand proved. Hence, workman Shafiullah was ordered to be reinstated with 50 per cent back wages from date of reference. He was also made entitled to full wages with all benefits from the date of award.

4. In the instant writ petition, the petitioner has alleged that award dated 28.08.2007 passed by the Labour Court in the aforesaid reference case has not been complied by the management of S.K.G. Distillery and the Bihar State Sugar Corporation.

5. Learned counsel for the petitioner submitted that during



the pendency of the adjudication process of the reference case, S.K.G. Sugar Mill was taken over by the Bihar State Sugar Corporation under Sugar Acquisition Act, 1975. He submitted that in the fact and circumstance of the case, this Court may issue a writ of mandamus for implementation of the award dated 28.08.2007 passed by the Labour Court.

6. It is a settled position of law that mandamus can not be issued if adequate relief can be obtained by some other means. It lies in cases where there is specific right but no legal remedy.

7. As far as implementation of an award passed by a Labour Court/Tribunal is concerned, the Act provides adequate remedy. Amended Section 11 (10) of the Act reads as under:-

“11(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.”

8. Sections 33-C (1) and (2) of the Act read as under :-

“33-C. Recovery of money due from an employer.-

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of [Chapter VA or Chapter



VB], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour



Court as may be specified in this behalf by the appropriate Government; [within a period not exceeding three months:]

Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.”

9. From a conjoint reading of Sections 11(1) and 33-C(1) of the Act, it would be manifest that the award holder has the option either to move before the Labour Court for transmitting the award to the Civil Court and file an execution petition before it for implementation of the award, or to prefer an application under Section 33-C (1) to the appropriate government for the recovery of money due to him and if the appropriate government is satisfied that any money is so due, it is mandatory for the government to issue certificate for that amount to the Collector, who shall proceed to recover the same in the manner as arrear of land revenue. Further, under Section 33-C(2) where any workman is entitled to receive from the employer any money, which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed in terms of Section 33-C (2) of the Act, such question



may, subject to any rules, be decided by the Labour Court as may be specified in this behalf by the appropriate government.

10. The petitioner has not availed of the equally efficacious statutory remedies available to him. Instead, he has rushed to this Court and has prayed for issuance of a writ of mandamus against the respondents for execution of the award passed by the Labour Court.

11. In view of the equally efficacious statutory remedies being available to the petitioner, I am not inclined to entertain the instant writ petition under extra ordinary writ jurisdiction. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.09.2018
Transmission Date	NA

