

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1508 of 2016

In
Civil Writ Jurisdiction Case No.15141 of 2011

Bihar State Road Transport Corporation Through Its Administrator,
Pariwahan Bhawan Birchand Patel Path Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Presiding Officer, Labour Court, Patna
3. Sri Bhola Prasad, S/o Late Laxmi Prasad Loni, R/o village – Nabinager,
Mangal Bazar, P.O. & P.S. - Nabinager, District – Aurnagabad, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Sri Arvind Kumar, Advocate
For the Respondent/s	:	A.C. to G.A. No. 8 Sri Alok Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 11-07-2018 Heard Sri Arvind Kumar, learned counsel for the petitioner , learned A.C. to G.A. No. 8 as well as Sri Alok Kumar Sinha, learned counsel for the workman / opposite party no. 3.

The present petition has been filed with a prayer to restore C.W.J.C. No. 15141 of 2011, which stood dismissed on 10.09.2015 due to non-prosecution. After about more than seven months the present restoration petition was filed, that too, without service of notice on counsel for workman, whereas, in writ petition workman had already appeared through his counsel. Subsequently, by order dated: 04.10.2017 learned counsel for the petitioner was granted time for serving of



restoration petition on learned counsel for opposite party no. 3. Accordingly, Sri Alok Kumar Sinha, learned counsel, has appeared on behalf of workman.

Learned counsel for the petitioner tried to persuade the court that due to bona fide mistake, he failed to appear on the last occasion and this was the reason that writ petition stood dismissed due to non -prosecution, whereas, Sri Alok Kumar Sinha, learned counsel for workman submits that intention of the Corporation/ Management appears to delay execution of Award, which was passed long back in the month of July, 2008. He submits that in perfunctory manner workman was dismissed from service, which was challenged before the Labour Court in Reference Case No. 44 of 1996. He submits that in Reference Case despite valid service of notice, no written statement was filed, nor any witnesses were produced. Reference Case was filed in the year 1996 and finally, it was awarded in the month of July, 2008. According to learned counsel for workman it was not the end of the matter. He submits that despite Award was passed in the year 2008, the Management sat over the matter and did not comply the same, and much belatedly, in the year 2011 writ petition was filed challenging the Award of the Labour Court. In the writ petition



after filing, on one ground or the other the Management got adjournment and this was the reason that this court fed-up with the attitude of Management dismissed the writ petition due to non-prosecution. It has been argued that the present restoration petition is one another ploy to further delay compliance of the Award of Labour Court. Accordingly, he submits that restoration petition may be dismissed.

Besides hearing, I have also examined the materials available on record. Of-course, while hearing restoration petition, there is no need to examine the merit of the case, but since it was a dispute in between Management and workman, certainly court may lean in favour of workman. Fact remains that Award in Reference Case was prepared long back in the year 2008 and after several years in 2011 writ petition was filed and after filing writ petition, on one ground or the other, writ petition was got adjourned. On examining record it is evident that workman after being fed-up with dialectic tactics of the Management had filed amendment under Section 17-B of the Industrial Disputes Act, 1947 for directing the Management to pay emolument which he was getting before his termination. The interlocutory application i.e. I.A. No. 1191 of 2012 was filed by workman and thereafter, learned counsel for the



Management took time for filing counter affidavit to interlocutory application. Thereafter, the case was adjourned on 06.08.2015, 07.08.2015 , 24.08.2015, 26.08.2015 and finally, on 10.09.2015 there was non -appearance on behalf of writ petitioner. On examination of the order-sheet as well as noticing the fact that continuously the case was got adjourned, this court dismissed the writ petition due to non -prosecution. Though, writ petition was dismissed due to non- prosecution on 10.09.2015 again the Management did not take immediate steps for filing of restoration petition and after expiry of several months present restoration petition was filed, however, no plausible explanation has been given for belated filing of restoration petition. In absence of any plausible reason for filing restoration petition belatedly as well as in the background of the case, which I have already indicated hereinabove, there is no reason to entertain the present petition.

The restoration petition stands dismissed.

(Rakesh Kumar, J)

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