

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13625 of 2014

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Awdesh Kumar, son of Late Ram Lagan Singh, r/o Barauni Thermal Power Station, PS Barauni, District Begusarai

... .. Petitioner

Versus

1. The C.M.D. Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, Patna
2. The Director of Administration Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, Patna
3. The M.D. Bihar State Power Generation Company Limited, Vidyut Bhawan, Bailey Road, Patna
4. The General Manager -cum- Chief Engineer, Barauni Thermal Power Station, District Begusarai
5. The Deputy Director of Personal, Barauni Thermal Power Station, District Begusarai

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar Sharma
For the Respondent/s	:	Mr.Vinay Kirti Singh Sr. Advocate
		Mr. Ajay Kumar Gautam
		Mr. Akhileshwar Singh

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 13-08-2019 Heard learned Counsel for the petitioner as well as the learned Senior Counsel appearing for the respondents.

The petitioner was removed from his services as Workmen in the respondent company on 29.1.1992. The removal was subject matter of a proceeding before the Labour Court in Reference Case No. 4 of 1993. The same was decided by Labour Court, Begusarai on 15.1.1996. The petitioner thereafter submitted his joining on 4.6.1996 whereafter he was again put under suspension and subjected to a proceeding. The subsequent proceeding was subject matter of CWJC No. 1480 of



2000. Dismissal of the petitioner was challenged in the proceeding before this court and on 25.4.2002 the writ petition was allowed. However, this Court had specifically observed that the petitioner will not be entitled to any back wages and he will get his wages from the date of his rejoining in the service. The petitioner rejoined on 6.9.2002. Admittedly there onwards he has been paid his wages. As per award of the Labour Court dated 15.1.1996 the petitioner has made his claim for back wages for the period 29.01.1992 till 04.06.1996 in the instant proceeding. Prayer is made in view of the order passed by the Labour Court dated 15.1.1996 taken note of hereinabove.

Learned Senior Counsel representing the respondent Company has submitted that the petitioner's claim is stale for which no suit would be maintainable after lapse of such a long time and the petitioner cannot be permitted to invoke writ jurisdiction belatedly for such a claim. It is also submitted that the petitioner has remedies under Sections 29 or 30 of the Industrial Disputes Act and therefore he is not entitled to any relief in the instant proceeding.

The submission of the learned Senior Counsel have been noted only to be rejected.

The Board/Company in compliance of the order dated



25.4.2002 passed in CWJC No. 1480 of 2000, admittedly has allowed rejoining of the petitioner on 6.9.2002 and given him benefits thereafter. In the circumstances, the technical plea raised by learned Senior Counsel regarding belated claim and the alternative remedy under Industrial Disputes Act are not tenable. Specific findings have been recorded by this Court in para 9 of the very same order dated 25.4.2002 passed in CWJC No. 1480 of 2000 with respect to right and entitlement of the petitioner vis-a-vis obligation of the respondent Board arising out of award of Labour Court dated 15.1.1996. In para 9 of the order passed in the said writ petition this Court has observed as follows:-

“9. The Board did not challenge the award of the labour court and the award thus became final and finding on the parties.”

In view of the said findings/observations of this Court in the earlier writ proceeding it does lie in the mouth of the respondents to submit that petitioner should avail of remedies under the Industrial Disputes Act or that his claim is stale in view specific finding that award of Labour Court dated 15.1.1996 are final and binding inter parties. The respondents therefore had no option but to pay the petitioner arrears/back wages/balance of back wages in terms of the award dated



15.1.1996 for the period in between his earlier removal in the year 1992 on 21.1.1992 till his reinstatement thereafter on 4.6.1996.

The authorities would be obliged to calculate the petitioner's outstanding and make payment of the same along with details showing calculation of the payment being made in view of the findings recorded in the order of the writ court dated 25.4.2002 taken note of hereinabove. Let the payments be made to the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order.

The writ petition stands disposed of.

(Madhuresh Prasad, J)

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