

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5192 of 2013

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Nawal Kishore Singh, Son of Laxmi Singh, Resident of Village-Nawada, P.S. Naugachia, District – Bhagalpur.

... .. Petitioners

Versus

1. The State of Bihar through Managing Director, Bihar State Warehousing Corporation, Mayourya Lok Complex, Patna.
2. The Managing Director, Bihar State Warehousing Corporation, Maurya Lok Complex, Patna
3. The Secretary, Bihar State Ware Housing Corporation, Maurya Lok Complex, Patna.
4. The Divisional Manager, Bihar State Warehousing Corporation, Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Mithilesh Kumar Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 11-04-2019

Heard learned counsel for the parties.

2. In this case, the petitioner is challenging the order dated 03.09.2012 passed by the Presiding Officer, Labour Court, Bhagalpur, in Miscellaneous Case No. 7 of 2004, whereby and whereunder he has dismissed the application filed under Section 33(A) of the Industrial Dispute Act, 1947 having held that the application is misconceived.

3. It appears that the petitioner had filed an application under Section 3(C) (2) of the Industrial Disputes Act,



accordingly, the order was passed for payment of amount. When the payment was not made, a certificate proceeding was initiated before the Certificate Officer, Bhagalpur, and during the pendency of the certificate proceeding the payment was made to the petitioner, but the issue of interest is still pending before the Certificate Officer. In the meantime, the petitioner has been terminated from the service as he was a daily wage employee. Whereafter, an application under Section 33(A) of the Industrial Disputes Act was filed by the petitioner, mentioning that the management has violated the terms of Section 33 of the Industrial Disputes Act and as such, Section 33(A) is maintainable and it should be treated to be a terms of reference and the case be decided accordingly. The Labour Court has considered the provision of Section 33(A) of the Industrial Disputes Act, having held that the application is not maintainable as the provision of Section 33(A) of the Industrial Disputes Act is not applicable as provision of Section 33(A) would apply only if there is a contravention of the provisions of Section 33 during the pendency of proceeding before a Conciliation Officer, Board, an Arbitrator, a Labour Court, Tribunal and National Tribunal, as the case may be, but there is no such proceeding is pending before any of the Forum, as mentioned hereinabove.



4. In such view of the matter, this Court does not find any error in the order of the Labour Court. Hence, this writ petition is dismissed.

5. At this stage, learned counsel for the petitioner submits that similarly situated persons have been granted the benefit. If that be so, the petitioner may take legal course as available to him.

6. Let the Lower Court's Record be remitted back to the Labour Court, Bhagalpur, forthwith.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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