

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18188 of 2015

- 1.1. Mira Daruka, W/o Late Prem Kumar Daruka
- 1.2. Raghvendra Kumar Daruka, S/o Late Prem Kumar Daruka
- 1.3. Manish Kumar Daruka S/o Late Prem Kumar Daruka, Proprietor M/S A.B. Gas Agency at present Prem Vastralaya, Old G.T. Road, P.S. and Dist- Aurangabad.

... .. Petitioners

Versus

1. The State of Bihar through the Secretary, Department of Labour, Government of Bihar, Patna.
2. The Secretary, Department of Labour, Government of Bihar, Patna.
3. Bijoy Kumar Singh, son of Late Rais Singh, resident of Village- Bibipur, P.S. Rafiganj, District- Aurangabad.
4. Kamta Prasad Singh, son of Late Gupta Singh, resident of Village- Mahyan Bigha, P.S.- Madanpur, District- Aurangabad.
5. Ram Pukar Singh, son of Late Ram Naresh Singh, resident of Village- Mahattipur, P.S. and District- Aurangabad.
6. Arbind Kumar, son of Sukhdeo Ram, resident of Village- New Area, P.S. and District- Aurangabad.
- 7.1. Indralata Devi, W/o Naresh Prasad, Resident of Village- New Area, P.S. and District- Aurangabad.
8. Md. Ayuli, son of Late Md. Habibullah, resident of Mohalla- Satgawan, P.S.- Hariharganj, District- Palamu (Jharkhand).
9. Pramod Kumar Sinha, son of Late Gaurishankar Prasad Sinha, resident of Mohalla- Biratpur, P.S. and District- Aurangabad.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Nand Lal Kumar Singh, Advocate
For the State	:	Mr. Rishi Raj Sinha, S.C-19
		Mr. Saurabh, A.C. to S.C.-19
For the Resp. Nos. 3-9	:	Mr. Sudhir Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 05-08-2019

Heard learned counsel for the petitioners, learned



counsel for the State and learned counsel for the private respondents.

In this case, the petitioners are challenging the award dated 26.02.2015 passed in Reference Case No. 1 of 1997, by which the Labour Court has given direction for reinstatement of private respondents along with full back wages.

As per the claim of the workmen, they were working with M/S. A.B. Gas Agency, Aurangabad, under the dealership of Hindustan Petroleum Limited. It has been alleged that they were not getting the minimum wages fixed by the State Government, no service card, no attendance register etc. were maintained at the said Gas agency, so the workmen requested for redressal of the grievance. When it was not redressed, an industrial dispute was raised in connection with the industrial dispute, led to initiation of conciliation. The Gas agency remained closed from 15.12.1994 to 16.12.1994 and on 17.12.1994 when the workmen returned to work, they were asked to leave the premises of the Gas agency, thereby terminated the services of the workmen without compliance of the provision of the Industrial Disputes Act. Accordingly, Industrial Disputes was referred to Labour Court for adjudication by Government of Bihar vide Notification No.



3/D1-601/95 L & E-1120 dated 19.11.1996 has referred the following disputes for adjudication.

“Whether removal from work of Sri Vijay Kumar Singh, Kamta Prasad Singh, Naresh Prasad Singh, Arvind Kumar, Pramod Kumar Sinha, Ram Pukar Singh and Md. Ayub by the Management of M/S. A.B. Gas Agency, Aurangabad is justified if not what relief the workmen are entitled to?”

The parties have led their documentary as well as oral evidences and finally the Labour Court after examining the materials has recorded that these workmen were terminated from the service without their being compliance of Section 25F of the Industrial Disputes Act, nor any inquiry was conducted before their termination/dismissal, granted relief of reinstatement without full back wages.

Learned counsel for the petitioners submits that original owner has died and one Shyam Kishore Prasad, who is also one of the partner of that agency has tendered his resignation and withdrawn the registration also.

Learned counsel for the private respondents submits that on 17.12.1994 the private respondents were terminated and said Shyam Kishore Prasad tendered his resignation on 02.09.1997 and he has again withdrawn the same and the partnership was dissolved in 1998.



However, from the award it does not appear that these facts were raised before the Labour Court as no issue in this regard has been framed nor any finding has been given by the Labour Court. Admittedly, it is failure to comply the provision of Section 25F of the Industrial Disputes Act.

Learned counsel for the petitioners also submits that as the Gas agency has been closed and as such, the question of reinstatement of the private respondents does not arise, only the workmen can claim some amount of compensation.

Considering the aforesaid fact that the Gas agency has been closed, so the question of reinstatement of private respondents does not arise. Hence, the impugned award dated 26.02.2015 passed by the Labour Court is modified to the extent in place of reinstatement with back-wages, the Management would pay Rs.75,000/- by way of compensation to each of the workmen-private respondents.

Accordingly, the impugned award is modified to the extent indicated above.

At this stage, learned counsel for the Gas agency submits that the matter is pending for execution before the Executing Munsif, Aurangabad. If that be so, the Executing Munsif, Aurangabad, proceed ahead in the execution matter as



per the modification made in the award.

With the aforesaid observations and directions, this writ petition stands disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	09.08.2019
Transmission Date	

