

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19517 of 2019

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Ram Vinoy Singh, alias Ram Vinai Singh, S/o Sri Nalish Singh, Resident of Village-Makhdumpur, P.O.-and P.S. Arwal, District-Arwal.

... .. Petitioner/s

Versus

1. The Chief General Manager, State Bank of India, Local Head Office, West Gandhi Maidan, Patna-1
2. The Deputy General Manager, State Bank of India, Local Head Office, West Gandhi Maidan, Patna-1
3. The Branch Manager ,State Bank of India, Arwal
4. The Assistant General Manager, State Bank of India, Zonal Office, Patna
5. Presiding Officer, Industrial Tribunal, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijoy Nandan Sahay, Advocate Mr. Arun Shrivastava, Advocate
For the Bank	:	Mr. B.B. Sinha, Advocate Mr. Ajay Dutt Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 18-11-2019

Heard learned counsel for the parties.

2. Ministry of Labour, Government of India, had made following reference dated 24.05.2017 under clause (d) of sub section (1) and sub section 2A of Section 10 of the Industrial Disputes Act, 1947, (hereinafter referred to as the ‘Act’), in the wake of an Industrial Dispute between the Chief General Manager, State Bank of India, Local Head Office, Patna and the petitioner, the workman:-

*“Whether the action of the
management of SBI, Local Head*



Office, Patna in terminating the service of Ram Vinay Singh, Ex-messenger w.e.f. 01.10.1998 is justified? If not, to what relief the workman concern is entitled to?"

3. The said reference gave rise to Reference Case No. 03 (C) of 2017 before the Industrial Tribunal, Patna.

4. The learned Presiding Officer, Industrial Tribunal, Patna, has answered first part of the reference as noted above in affirmative holding termination of service of the petitioner as justified, by an award dated 20.05.2019, which is being assailed in the present writ application.

5. I have heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State Bank of India. Considering the pleadings on record and submissions advanced at the Bar, I have considered it apt to dispose of the writ application at the stage of admission itself.

6. The facts as narrated by the petitioner in the writ application is that the petitioner was engaged as Casual Messenger in the State Bank of India, Arwal Branch, with effect from 01.07.1997. He had claimed his regularization, whereafter his service was terminated on 30.09.1998. He filed a writ application before this Court giving rise to CWJC No. 13102 of 2004 claiming



his regularization. The said writ application was disposed of by an order dated 04.07.2011 with a direction to the Bank to consider the petitioner's case for his absorption, in following terms:-

“Accordingly, this Court directs the respondent Bank Authorities to consider the case of the petitioner for absorption in the light of Circular dated 06.04.1991, taking into account the past service rendered by the petitioner, as early as possible, within a period of three months from the date of receipt of a copy of the order.

In view of this Court the case of the petitioner also ought to have been considered in the light of the general direction rendered in C.W.J.C. 9534 of 2010.

Accordingly, the writ application is disposed off”.

7. The State Bank of India, preferred appeals under the Letters Patent of this Court against the said order dated 04.07.2011 as also the order passed by this Court in CWJC No. 9534 of 2010. The Appeals were allowed by a Division Bench of this Court by an order dated 21.04.2016, mainly on the ground that workman had



forum under the Act and the Writ Court, in such situation, should not have entertained the writ petition, at the very first instance.

8. The reference in question was, thereafter, made by the Ministry of Labour, Government of India, as has been noted above. The petitioner filed his claim before the learned Presiding Officer, a copy of which, has been brought on record by way of Annexure-5 to the writ application. The Management also filed their statement denying the engagement of the petitioner by the Bank. It was their claim that the petitioner was rather engaged as canteen boy by a Canteen Committee of local Arwal Branch, formed to oversee canteen arrangements in the said Branch of the Bank for the staff. In support of their respective cases, oral evidence was also adduced. The petitioner (workman) examined himself as the sole witness for the workman and no other person was examined on his behalf in support of his case, which fact is not in dispute. Two witnesses were examined for the Management, who denied the claim of the petitioner to have been engaged by the Bank on daily wage basis. The Presiding Officer has, by the impugned award, rejected the case of the workman of his engagement by the Bank on daily wage basis.

9. Mr. Vijay Nand Sahay, learned counsel appearing on behalf of the petitioner has argued that the learned Presiding



Officer failed miserably to consider in its correct perspective, the case of the workman, to the effect that he was never engaged as canteen boy for the period 01.07.1997 to 30.07.1998 (the date of termination). He has argued that the Management witnesses did not depose of their knowledge about the petitioner's engagement as canteen boy and in such circumstance, the conclusion arrived at by the learned Presiding Officer that the petitioner was working as canteen boy, is perverse, and, therefore, the award requires interference by this Court.

10. I have carefully perused the pleadings on record and the documents annexed thereto. The depositions of witnesses have also been enclosed with the writ application by way of annexures, which I have examined.

11. The limitations of judicial review under Article 226 of the Constitution of India while considering challenge to an order passed by the quasi judicial authority has always to be kept in mind. The judicial review is not an appeal from a decision and it has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. A judicial review is review of the manner in which a decision is taken by an Administrative or quasi judicial authority. The sole consideration, which a Court exercising power of judicial review is required to



have is as to whether the conclusion of the Tribunal/quasi-judicial authority is based on evidence on record that support the finding, or whether conclusion is based on no evidence (*State of Tamilnadu Vrs. S. Subramanyam, AIR 1996 S.C. 1232*). Keeping the well settled principles of judicial review in mind, the correctness of the challenge to the impugned award is to be examined. I must record at the very outset, after having gone through the impugned award, that learned Presiding Officer has dealt with the claim of the petitioner, the written statement of the Management, and has appreciated oral evidence adduced on their behalf. After having done so, the Tribunal has recorded his finding to the effect that the workman failed to prove that he was ever appointed by the Management at any point of time and his consistent case was of having worked as a canteen boy, which could be gathered from the orders of this Court passed in the Writ Proceedings and the Letters Patent Appeal. It is noticeable from the impugned award that reliance was placed on behalf of the Management on a Supreme Court's decision in case of State Bank of India and Ors. Vrs. State Bank of India Canteen Employees Union (Bengal Circle), reported in (2000) 5 SCC 531, wherein the Supreme Court has held that employees of the canteens which are run at various Branches by the Local Implementation Committee



as the welfare scheme framed by the State Bank of India, would not become employees of the Bank as the Bank does not have any statutory or contractual obligation arising under the arrangement to run such canteens.

12. In the order dated 04.07.2011 passed in CWJC No. 13102 of 2004, the petitioner's claim that he was working as a canteen boy on payment of daily wages, has been noted. The Division Bench also noted an absence of privity of contract between the Workman and the Management. The petitioner could not corroborate his case that he had worked as messenger and not as a canteen boy. The submissions made on behalf of the petitioner that the Management failed to establish that the petitioner did not work as Messenger and, therefore, the finding recorded by the Tribunal requires interference, cannot be accepted. The onus was on the workman to establish that he had worked as such, and not as a canteen boy.

13. The finding of the Presiding Officer, in my view, cannot be said to be without or contrary to any evidence/material. On reading of the impugned award, it cannot be easily seen that the Tribunal has not taken into account such facts or evidence which were irrelevant for reaching the impugned conclusion or has left out the relevant one. It is established principle of judicial



review that if there is some evidence or material to reasonably support the conclusion of quasi judicial authority, it is not the function of the Court, while exercising power of judicial review to re-appreciate the evidence and arrive at its own conclusion.

14. In such view of the matter, I do not find it to be a fit case for interference exercising power of judicial review under Article 226 of the Constitution of India.

15. This writ application is, accordingly, dismissed for the above mentioned reasons.

(Chakradhari Sharan Singh, J)

S.Ali/-

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