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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 289 of 2019**

{Arising out of Order dated 12.09.2018 passed in Writ Petition No. 3904 of 2003 by the learned Single Judge}

Steel Authority of India Limited, Bhilai Steel Plant, Through Its Chief Executive Officer (Formerly designated as The Managing Director) Bhilai Steel Plant, Bhilai, District Durg, Chhattisgarh PIN - 490 001.

---- Appellant**Versus**

1. Kewal Chand S/o Tulchand alias Bishal, R/o Village Murmunda, PO Gorhi, District Durg, Chhattisgarh, PIN 490 036
2. President, Industrial Court, Chhattisgarh at Raipur (CG) PIN 492 001
3. The Presiding Officer, Labour Court, Durg, (CG) PIN 491 001

---- Respondents

For Appellant	: Dr. Saurabh Pande, Advocate.
For Respondent	: Shri R.S.Patel, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Goutam Bhaduri, Judge

Judgment on Board**Per P.R. Ramachandra Menon, Chief Justice****21/06/2019**

1. This appeal is preferred at the instance of the Management/Employer challenging the correctness and sustainability of the order of the learned Single Judge, particularly with regard to the observations made in paragraph 9 with reference to the point noted in paragraph 8, as to the consequential benefits to be provided to the 1st Respondent/Employee pursuant to declining interference and dismissing the writ petition.
2. Heard Dr. Pandey, the learned counsel for the Appellant/Management and Shri Patel, the learned counsel for the 1st Respondent/Employee.

3. The sequence of events reveals that the Employee was an aspirant to get employment under the Appellant/Management pursuant to acquisition of land for setting up of the Unit by the Management. A scheme was introduced by the Management, whereby some concession was provided to give employment to the losers of land, prescribing specific norms in this regard. Admittedly, the 1st Respondent preferred an application and obtained employment under the 'land losers' quota' and was continuing as above, ever since from 16.10.1975, as a Sweeper. Later, it came to the notice of the Appellant/Employer that some fraud was played by the 1st Respondent in getting employment, by wrongly describing the name of his father; to be in the 'land losers' category'. In fact, it was the name of the father-in-law, which was stated as corrected by the learned counsel for the 1st Respondent. There is no dispute to the fact that the father of the 1st Respondent was not the owner of the land and hence the 1st Respondent was not coming within the category of 'land losers'. However, he was successful in getting employment by virtue of the distorted facts given, as above. This led to a domestic enquiry in respect of the misconduct and based on the report finding the 1st Respondent guilty, he was inflicted with a nominal punishment of reduction of pay by two stages in the year 1984.
4. Later by 1985, the 1st Respondent was given a fresh attestation form to be filled up, giving the vital particulars. In the column pertaining to the involvement of the employee in any of the criminal cases (if any), the involvement of the 1st Respondent in some criminal cases was clearly suppressed. This led to another enquiry in compliance of the relevant provisions of law and the 1st Respondent was found guilty, based on which, the punishment of dismissal from service was inflicted upon him in the year 1987.
5. Aggrieved by the course and proceedings, the 1st Respondent moved the Labour Court and after analysing the facts and figures, the Labour Court

arrived at a finding that the guilt/misconduct on the part of the employee was established, however, the punishment was modified and reinstatement was ordered without backwages. This made the Appellant/Management as well as the Respondent/Employee to be aggrieved, who filed separate appeals before the Industrial Tribunal. But, the Tribunal, as per the verdict passed on 26.07.2003, affirmed the verdict passed by the Labour Court and declined interference. Both the appeals came to be dismissed accordingly.

6. The verdict passed by the Industrial Tribunal was sought to be challenged by the Respondent/Employee (insofar as the backwages were denied to him) by filing Writ Petition No. 3869 of 2003. A learned Single Judge of this Court found that there was absolutely no merit to call for interference and accordingly, dismissed the petition as per the judgment dated 08.11.2017. This was sought to be challenged by the Employee by filing Writ Appeal No. 43 of 2018, which also came to be dismissed as per the verdict passed by a Division Bench of this Court on 07.08.2018. It was thereafter, that the writ petition filed by the present Appellant/Management challenging the reinstatement, (though without backwages) by way of Writ Petition No. 3904 of 2003 came up for final hearing before the learned Single Judge. Referring to the sequence of events, the merits involved, dismissal of the Writ Appeal No. 43 of 2018 filed by the Employee, it was held that there was no scope for interference and the petition filed by the Management/Employer was also dismissed on 12.09.2018. Thereafter, the learned Single Judge proceeded further as to the consequential benefits payable to the 1st Respondent/Employee and some observations, declarations and directions were made in the next paragraph to grant monetary benefits with reference to the posting of the immediate junior and as to the payment of retiral benefits, which made the Appellant/Employer to have it challenged by filing the present appeal.

7. During the course of hearing, learned counsel for the Appellant submits that there is no dispute that the issue with regard to termination of the service of the 1st Respondent/Employee and the reinstatement ordered without backwages had become final, by virtue of the verdicts passed by the learned Single Judge and the affirmation made by the learned Division Bench in Writ Appeal No. 43 of 2018. But the grievance is only with regard to the further course of action pursued by the learned Single Judge as discernible from 'paragraph 9' of the judgment under challenge, whereby some incorrect calculations have been made as to the consequential benefits, which was never the subject matter of consideration before the Court at any point of time, either by way of the pleadings or by way of proceedings before the Industrial Tribunal or the Labour Court.
8. The question is whether it was necessary for the learned Single Judge to have made a computation of the benefits pursuant to the dismissal of the appeal filed by the Management as flowing from the verdict passed by the Labour Court which came to be affirmed by the Industrial Tribunal. The punishment of dismissal from service having been modified by the Labour Court and it having been affirmed by the Industrial Court and subsequently by the learned Single Judge and also the Division Bench of this Court, it has become final. The matter ends there and what are the benefits flowing out of the verdict passed by the Labour Court is a matter to be worked out by filing appropriate proceedings before the appropriate forum. This exercise could not have been taken up *suo moto* in a writ petition filed under Article 226 of the Constitution of India and that too, by the Management. Quantum of the benefits was never sought to be fixed by the Employee in the said petition. Even without the contents of paragraphs 8 and 9, the judgment of the learned Single Judge is perfect and complete in all sense, whereby the writ petition filed by the Management has been dismissed. As it stands so, we are of the view that the further steps pursued by the learned Single

Judge raising an additional issue at paragraph 8 as to the consequential benefits and the fixation of the same as stipulated in paragraph 9, are rather otiose and not necessary to have the judgment sustained with regard to the challenge raised by the Management in the writ petition.

9. In the aforesaid circumstances, we find it appropriate to cause the 'paragraphs 8 and 9' of the judgment under challenge to be deleted. It is ordered accordingly. We make it clear that we decline interference with regard to the finding and reasoning rendered in respect of the challenge raised by the Management as to the reinstatement without backwages. We leave the matter there.
10. It is open for the 1st Respondent/Employee to work out the remedy with regard to the consequential benefits payable pursuant to the dismissal of the writ petitions and the appeals filed by both the sides, so as to give effect to the verdict passed by the Labour Court and the Industrial Tribunal. No opinion is being expressed with regard to the course, the quantum and the mode of calculation by this Court in the present proceedings.
11. The appeal is disposed off accordingly.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Goutam Bhaduri)
JUDGE