

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 77 of 2018

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Lal Babu Sah Son of Yamuna Sah, Resident of Barahampura, Laxmi Chauk,
Satwaria Tola, P.O.-M.I.T., P.S. Brahampura, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Industries Department,
Government of India, New Delhi
2. General Manager, Bharat Wagon and Engineering Company, Muzaffarpur.
3. The Managing Director, Bharat Wagon and Engineering Company,
Muzaffarpur, Head Office, Patna.
4. The Deputy Managing Director, Bharat Wagon & Engineering Company,
Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Rajnish Ranjan, Advocate
For the Respondent/s : Mr Sujeet Kumar Sinha, ASG

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 27-07-2022

Heard learned counsel for the petitioner and the
respondents.

2 This writ petition has been filed seeking quashing of
order dated 20.02.2016 in Reference Case No 4 of 2001 by the
Presiding Officer, Labour Court, Muzaffarpur whereby and
whereunder the Labour Court has passed the Award against the
workman (petitioner).

3 Brief factual background is that petitioner claims to be
son of one Yamuna Sah who was an employee of Arthur Butler



and Company, Muzaffarpur. It is petitioner's case that his father retired in the year, 1976 on attaining the age of 60 years. The petitioner, being born in the year 1960, was only 16 years of age at the time of his father's retirement. Being underage, it is the petitioner's case that he did not apply for appointment on compassionate ground on retirement of his father under the extant scheme.

4 Upon attaining majority, he gave an application to M/s Bharat Wagon and Company (for brevity, *the Company*) as the erstwhile Arther Butler & Company has merged in the Company. It is his case that in the year 1979, he was appointed as casual labourer in the Company. He claims that there was a tradition/rule in the Company to appoint one ward of retired employee, on compassionate ground. He, however, has not placed any such rule, based on which he can claim that he was entitled to be considered or appointed on compassionate ground on retirement of his father.

5 The petitioner also claims that he continues to work as casual labourer and his name was entered in the panel as casual worker in the year, 1980. It is his case that on 06.01.1988, he has been removed from the Company without assigning any reason or without issuing any show cause. He claims to have made various representations to the Management and that he was orally assured



that his case would be considered sympathetically. After waiting for a long time, the petitioner raised an industrial dispute on 10.11.1999, nearly 11 years after his alleged illegal termination from service.

6 The industrial dispute raised by the petitioner, has been referred by the State Government for adjudication to the Court of Presiding Officer, Labour Court, Muzaffarpur under a Notification dated 11.12.2001. The terms of reference being “whether the termination of the services of the workman Lal Babu Sah, M/s Bharat Wagon and Engineering Company Limited, Muzaffarpur is justified? If not, what relief he is entitled to? The reference was under Section 10 (1) (c) of the Industrial Disputes Act, 1947 (for brevity, *the Act*).

7 The respondents were represented before the Labour Court. Their counsel has appeared in the instant proceedings. Relying upon copy of the written statement filed on behalf of the respondents, he submits that the petitioner is not entitled to the benefit of regularization in terms of Section 25 – F of the Act. As per petitioner’s own case, he was engaged as a casual labourer on daily wages.

8 Learned counsel for the respondents has submitted that from the pleadings in the writ petition, it is obvious that the



petitioner himself is not sure of his case. In the writ petition, he has stated that he had a right to be appointed on compassionate ground upon retirement of his father, but has not annexed any rule or provision in support of such submission. He has alleged that he was assured to be reinstated after his removal on 06.01.1988, however, no such order of removal has been placed on record, though he claims to be a casual worker at the time of his removal. There is no material on record to suggest that petitioner's removal was based on any charge whatsoever. He, thereafter, claims to have represented before the authorities for his reinstatement and was orally assured, but not reinstated.

9 The terms of reference in Reference Case No 4 of 2001, however, are whether the termination of the services of the petitioner is justified or not? Apparently, the petitioner is groping in the dark and making desperate attempts. No material, let alone sufficient material, has been placed before the Labour Court to establish that the petitioner was a workman, employed in the service of the respondents for one year or more. On the contrary, his case is that he has worked as casual labourer under the respondents. Giving copy of the Employees State Insurance Corporation (for brevity, *ESIC*) identity card, purportedly issued in his favour, he has also placed on record nine attendance cards,



allegedly issued by the respondents, to show that he has worked in the respondents' organization. Neither the identity card issued by the ESIC nor copies of the attendance cards, relied upon by the petitioner, corroborates his claim to be a workman, and entitled to benefit of Section 25 – F of the Act. The two witnesses, examined by the petitioner in support of his claim, have just stated that the petitioner was in continuous employment of the respondents for nearly nine years. Other than statement of these two witnesses, there is no material whatsoever to establish the petitioner's claim that he was ever a workman. The petitioner clearly has been unable to establish his case before the Labour Court.

10 This Court, having considered the rival submissions and on going through the pleadings in the writ petition and annexures thereto, would find that the facts asserted are suffering from glaring incoherence. The petitioner has claimed entitlement to compassionate appointment upon attaining majority in the year, 1978. However, there is no material to show that he had claimed such right or that he was ever appointed on compassionate ground. The copy of the identity card, issued by ESIC as well as the attendance cards, from its bare perusal, does not corroborate the claim of the petitioner that he has been a workman in the respondent-organization for a year, let alone nine years. Other



than statement of two witnesses, recorded in the impugned order, there is no material whatsoever to support the petitioner's contention that he was a workman and entitled to benefits under Section 25 – F of the Act. Order of the Presiding Officer of the Labour Court is an exhaustive and well considered order.

11 On anxious consideration of the material on record, the Labour Court has passed an award against the petitioner. Such conclusion is based on detailed consideration of the rival claims, the material and witnesses, produced by the parties.

12 This Court does not find any reason to interfere with the order impugned.

13 This writ petition is devoid of merit and is, accordingly, dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2022
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