

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11033 of 2018

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The Chief General Manager, State Bank Of India, Local Head Office, West Gandhi Maidan, Patna 800001.

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Ministry of Labour, Government of India, New Delhi.
2. The State of Bihar through the Principal Secretary, Labour Resources Department, Vikash Bhawan, New Secretariat Building, Bailey Road, Patna 800001.
3. Hari Kishun Yadav, son of Late Deoraj Yadav, resident at- Kailash Nagar, PO- Naraipur, PS- Bagaha, District- West Champaran, Bihar- 845105.
4. The Assistant Labour Commissioner (Central) Ministry of Labour, Government of India, Harindanga Bazar, Pakur (Jharkhand) 816107.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Bihari Sinha, Advocate.
For the Respondent/s	:	Mr. Ajay Kr.Rastogi-Aag10
For the UOI	:	Mr. Sujeet Kumar Sinha, CGC

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

14 04-10-2023 Heard the parties.

2. Earlier also when the matter was taken up, none had appeared on behalf of Respondent No. 3, though the notice was validly served upon him and he had already entered his appearance.

3. The only question for consideration before this Court is as to whether the State Industrial Tribunal has jurisdiction to entertain the grievance of respondent No. 3, as it lacks jurisdiction.

4. Learned counsel for the petitioner has vehemently



submitted that the application filed by the respondent no. 3 under the aforesaid provision of law is not maintainable on facts and on law as well. The respondent no. 3 did not fulfill the requirements of amended Section 2A, as nothing has been annexed alongwith the application showing that in fact an industrial dispute was raised as defined under the Industrial Disputes Act or the Conciliation Officer initiated any conciliation proceedings, as provided under the provisions of the Industrial Disputes Act. He further submits that the power to adjudicate the industrial dispute, the tribunal derives jurisdiction to adjudicate the industrial dispute only when the dispute is referred by the appropriate government. The appropriate government also mentions a particular term of dispute which requires adjudication. The power to specify the terms of reference is only vested in government. Such term of reference cannot be formulated either by consent of the party or by the sweet will of the concerned person nor the Tribunal has power to frame such term of dispute. He further submits that the alleged workman has approached the Tribunal directly under Section 2A (1&2) of the Industrial Disputes Act and the same is not maintainable. The Tribunal does not have the power to entertain applications directly, as it not constituted under Section



7A of the Industrial Disputes Act by the Appropriate Government i.e. Central Government.

5. Learned counsel for the petitioner has drawn the attention of this Court towards the order passed by the learned Division Bench of this Court in L.P.A. No. 1822 of 2017 wherein the learned Division Bench of this Court in an identical matter has been pleased to hold that the State Labour Court/Industrial Tribunal has no jurisdiction to entertain the grievance of the present appellant, as it lacks jurisdiction and the proper forum for the said adjudication would have been Central Industrial Tribunal, Dhanbad.

6. In view of the settled legal proposition, the present writ application stands allowed and the order dated 11.07.2016, passed in Industrial Disputes Case No. 18 (C) of 2015 by the Presiding officer, Industrial Tribunal, Patna is hereby set aside. However, the respondent No. 3 is at liberty to avail the remedy as provided under the law.

(A. Abhishek Reddy , J)

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