

09.10.2023
Item No.26
Court No.11
Avijit Mitra

WPCT 122 of 2023

In re: An application under Article 226 of the
Constitution of India;
And

**Steel Authority of India Limited, IISCO Steel Plant
& ors.**

- Versus -

Sourendra Nath Biswas & anr.

Mr. Arjun Ray Mukherjee,
Ms. Sweta Mukherjee
...for the petitioners

Mr. Gautam Banerjee,
Mr. Sujit Kumar Ghosh
...for the respondents

Mr. Amal Kumar Datta
...for the Union of India

The present writ petition has been preferred
challenging an order dated 22nd March, 2023 passed
by the learned Tribunal in the original application
being O.A. 350/01967/2021.

Shorn of unnecessary details, the facts are that
the applicant/respondent no.1 herein was an
accountant in the Indian Iron and Steel Company, a
subsidiary of Steel Authority of India (in short, SAIL).
Challenging an order of dismissal from service, the
respondent no.1 preferred a writ petition being WP
No.18717 (W) of 2005 which was heard on diverse
dates and disposed of by a judgment dated 7th May,
2010 directing the authorities to reinstate the
respondent no.1 with imposition of a punishment of

'stoppage of increment with cumulative effect'. Challenging the said judgment, the writ petitioners preferred a mandamus appeal which was dismissed for default on 20th February, 2014. The restoration application filed about three years thereafter was also dismissed on 24th September, 2021. In the midst thereof, the respondent no.1 retired on 30th November, 2020. Thereafter, the respondent no.1 preferred a writ petition *inter alia* praying for payment of all the retirement benefits pertaining to the period from the date of dismissal till the date of delivery of the judgment dated 7th May, 2010 with extended pay scale. In the said writ petition, initially an order was passed on 9th August, 2021 directing the petitioners herein to compute the amount which is payable to the respondent no.1. A calculation report was prepared and by an order dated 24th November, 2021 the writ petition was disposed of with liberty to approach the Central Administrative Tribunal for the service benefits. Pursuant thereto, the original application was filed and the same was disposed of by the order impugned in the present writ petition.

Mr. Mukherjee, learned advocate appearing for the petitioners submits that the judgment dated 7th May, 2010 passed in WP No.18717 (W) of 2005 is without jurisdiction inasmuch as in terms of a notification dated 31st March, 2010 under Section

14(2) of the Administrative Tribunals Act, 1985 the Central Government specified 15th April, 2010 as the date on which the provisions of Section 14(3) shall apply to the organizations incorporated in the said notification wherein SAIL appears at serial no. 201. The principle of jurisdiction is fundamental to the administration of justice and lack of jurisdiction renders the order to be a nullity. The learned Tribunal glossed over the said issue and did not return any finding on the same and such infirmity warrants interference of this Court. In support of such argument reliance has been placed upon the judgment delivered in the case of *Kiran Singh & ors. Vs. Chaman Paswan & ors.* reported in *AIR 1954 SC 340*.

Per contra, Mr. Banerjee, learned advocate appearing for the respondent no.1 submits that the writ petition being WP 18717 (W) of 2005 was filed in the year 2005 and was heard on diverse dates. A perusal of the cause title of the judgment would also reveal that it was heard on 13th April, 2010 and 29th April, 2010 and the judgment was delivered on 7th May, 2010. The writ petition was pending for a period of about five years and at no juncture the jurisdiction point was urged. Even in the mandamus appeal preferred by the petitioners the point of jurisdiction was not urged. The mandamus appeal was dismissed

and the judgment dated 7th May, 2010 thus attained finality.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the writ petition challenging the order of dismissal was filed in the year 2005. The same was heard on diverse dates and finally disposed of on 7th May, 2010. The point of maintainability was neither urged in the writ petition nor in the mandamus appeal. The notification under Section 14(2) of the Administrative Tribunals Act, 1985 was issued years after the writ petition being WP No.18717 (W) of 2005 was entertained. The judgment dated 7th May, 2010 had also attained finality after dismissal of the appeal preferred against the same by the petitioners herein. In the said conspectus, the learned Tribunal rightly observed that it cannot sit in judgment over the judgment and order dated 7th May, 2010 passed in WP No.18717 (W) of 2005. The question of maintainability of the petition being in the nature of a preliminary contention needs to be addressed at the inception of the proceedings. The petitioners did not raise the question of maintainability in the writ petition preferred in the year 2005 nor in the appeal preferred in the year 2010. Till date, the respondent no.1 had

not been disbursed the benefits directed to be paid by the judgment dated 7th May, 2010.

It is well known that a decision is an authority for what it decides and not what can logically be deduced therefrom. Even a slight distinction in fact or an additional fact may make a lot of difference in decision making process. The judgment upon which reliance has been placed by the petitioners, in our opinion, is distinguishable on facts inasmuch as the writ petition was entertained five years prior to the notification.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned. The same does not suffer from any substantial failure of justice or any manifest injustice warranting interference of this Court.

In view thereof, no interference is called for in the present writ petition and the same is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Rai Chattopadhyay, J.) (Tapabrata Chakraborty, J.)