



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3307 OF 2021

1 Sr. Divisional Commercial Manager, **PETITIONERS**
South East Central Railway,
Nagpur (M.S.)

2 Divisional Railway Manager,
South East Central Railway,
Nagpur Division, Nagpur (M.S.)

3 General Manager,
South East Central Railway,
Bilaspur (C.G.)

VERSUS

Sunil Hemchand Sahare, **RESPONDENT**
Through General Secretary of Regd.
Trade Union (Parcel Porter Sanghtana
Nagpur (M.S.)).

Mrs. Mugdha Chandurkar, Advocate for petitioners
Mr. N.W. Almelkar, Advocate for Respondent

CORAM : BHARAT P. DESHPANDE, J.

DATE : 22nd MARCH, 2024

JUDGMENT

Rule. Rule is made returnable forthwith. Heard the parties with consent for final disposal.

2. By way of present petition, the petitioners are challenging the impugned Award passed by the CGIT, Nagpur, dated 10/02/2020. The CGIT allowed the reference holding that the respondent is a workmen and directed the petitioners to transfer the badge of license porter to him and to pay an amount of Rs.15,000/- as compensation in lieu of harassment, pain and sufferings.

3. The respondent appeared and contested by filing reply affidavit along with additional reply affidavit together with some documents.

4. Mrs. Chandurkar, learned counsel for the petitioners would submit that first of all the reference itself is required to be rejected since the respondent failed to demonstrate that he is member of the Union and that such Union is a registered Union. Secondly, she contended that the respondent is not covered under the circular issued by the petitioners for the purpose of transfer of badge of porter. She contended that the respondent is not coming within the relations as mentioned in the said circular and, therefore, the impugned Award needs to be quashed and set aside.

5. Mr. Almelkar, learned counsel for the respondent / workmen while supporting the contentions raised by the CGIT, would submit that the findings given therein needs no interference. However, he submits that in lieu of the additional affidavit and documents placed on record, the respondent was called for medical examination for the purpose of transfer of batch of the porter and accordingly he deposited the medical charges. Even the respondent, on the basis of transfer of such badge worked for three years as a porter and suddenly his badge was removed by the petitioners without giving any opportunity.

6. Though the findings of the learned CGIT are in favour of the respondent, it is clear from the additional affidavit by respondent along with certain additional documents, which were never produced before CGIT, the matter needs to be remanded to the CGIT for the purpose of deciding the dispute afresh and by allowing the respondent to produce these additional documents.

7. It is also necessary for the petitioners to establish that the respondent is member of the Union, which is registered in accordance with law. The learned CGIT on the basis of the

registration number found on the letter head and on the basis of the reference made by the concerned authority found that the respondent is the workmen of a registered Union. Accordingly, this aspect also needs clarification.

8. The learned counsel for the petitioners would submit that even the petitioners be granted an opportunity to produce additional documents, if any and both the parties be given opportunity to lead evidence so as to effectively decide the matter on the basis of additional documents placed before this Court and the one which may be placed before the CGIT by the parties.

9. In order to effectively decide the dispute on the basis of the documents placed before this Court, which were admittedly not produced earlier, the impugned Award needs to be quashed and set aside and the matter is required to be remanded to the CGIT for the purpose of giving opportunities to both the sides to produce the additional documents and to lead additional evidence, if any and thereafter to decide the matter on merits.

10. Needless to mention that this Court has gone into the merits as well as the grounds raised in the present petition. All contentions of all parties are kept open.

11. The learned CGIT is, therefore, directed to give an opportunity to both the sides to produce documents and lead evidence and thereafter to decide the dispute as early as possible since the original dispute is of the year 2016.

12. In view of the above observations, the petition is partly allowed. The impugned Award is quashed and set aside. The matter is remanded to the learned CGIT, Nagpur with a direction to give opportunities to both the sides to produce additional documents, to lead evidence, if any and thereafter to decide it afresh in accordance with law and as early as possible. No costs.

13. Rule is made absolute in above terms.

(BHARAT P. DESHPANDE, J.)

MP Deshpande