

Employers in Relation Manageme Vs. Their Workmen

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Court : Jharkhand

Decided On : Nov-30-2017

Appellant : Employers in Relation Manageme

Respondent : Their Workmen

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(L) No.2298 of 2007
----- Employers in relation to the management of Kathara Washery of M/s. Central Coalfields Limited, Bokaro. . Petitioner. -Versus- Their Workmen being represented by the Area Secretary, CCL Colliery Karamchari Sangh, Kathara Area, Bokaro. Respondent. ----- CORAM : HONBLE MR. JUSTICE RAJESH SHANKAR ----- For the Petitioner : Mr. Amit Kumar Sinha, Advocate For the Respondent: M/s. M. M. Pal, Sr. Advocate & Ruby Pandey, Advocate ----- I.A. No.5880 of 2017:

07. 30.11.2017: The present interlocutory application has been filed by the petitioner for stay of operation and implementation of the impugned award dated 3rd August, 2006 passed by the Central Government Industrial Tribunal No.1, Dhanbad in Ref. No.164 of 1999.

2. Learned counsel for the petitioner submits that the writ petition has been filed for quashing the impugned award dated 3rd August, 2006 passed by the Central Government Industrial Tribunal No.1, Dhanbad in Ref. No.164 of 1999, whereby the learned Tribunal has answered the reference in favour of the respondent-

Union, directing regularization of Ram Prasad Prajapati and 24 other workmen in the roll of concerned washery. The writ petition was filed on 23rd April, 2007 and after hearing the learned counsel for the petitioner at length, this Court admitted the writ petition for hearing vide order dated 10th August, 2010. Subsequently, vide order dated 6th May, 2011, lower court records were summoned for final hearing of the writ petition.

3. Learned counsel for the petitioner submits that though the petitioner had earlier filed an interlocutory application, being I.A. No.2917 of 2007 soon after the filing of the writ petition, yet the same was not pressed by the petitioner, as there was no immediate threat of prosecution against the petitioner under Section 29 of the Industrial Disputes Act. However, vide order dated 3rd October, 2017, non-bailable warrants have been issued against the officers of the petitioner by the court of learned Judicial Magistrate, 1st Class -2- Bermo at Tenughat in L.E.O. Case No.23 of 2008 and, thus, the present interlocutory application has been filed by the petitioner. In view of the aforesaid facts, the operation of the impugned award passed by the learned Tribunal may be ordered to be stayed during pendency of the writ petition.

4. Mrs. M. M. Pal, learned senior counsel, appearing on behalf of the Respondent-workmen, submits that after appreciating the evidence led during the adjudication of the reference, learned Tribunal answered the reference in favour of the workmen and directed the petitioner-Management to regularize the workmen in the permanent roll of Kathara Coal Washery of Central Coalfields Limited within 30 days from the date of publication of the award. Learned senior counsel further submits that when the writ petition was admitted for hearing vide order dated 10th August, 2010, I.A. No.2917 of 2007 filed by the petitioner was already on record and no order was passed on the said interlocutory application. Therefore, it implies that no stay was granted in favour of the petitioner and as such, operation and implementation of the impugned award may not be stayed at this stage after lapse of several years.

5. Having heard rival contentions raised by the learned counsel for the parties, it appears that vide order dated 10th August, 2010, the writ petition was admitted for

hearing and subsequently vide order dated 6th May, 2011 the lower court record was summoned for the purpose of adjudication of the present case.

6. The Division Bench of this Court, in Paragraph No.5 of the judgment, rendered in L.P.A. No.196 of 2014 (Employers in relation to the Management of Swang Washery of M/s. Central Coalfields Limited Vs. Their Workmen Sri Pankaj Kumar), has held as under:- 5.Once the writ petition is admitted meaning thereby that the appellant has a prima facie case against the award passed by the Central Government Industrial Tribunal No.1, Dhanbad. We, therefore, stay the operation, implementation and execution of an award passed by the Central Government Industrial Tribunal No.1, Dhanbad in Reference No.64 of 2006, award dated 12th August, 2011 during pendency and final hearing of W.P.(L) No.7444 of 2011, looking to the prima facie case in favour of the appellant, balance of convenience in favour of the appellant and irreparable loss will be caused to the appellant if the stay is not granted. -3- 7. In the present case, the writ petition was admitted vide order dated 10th August, 2010, however, no order was passed on I.A. No.2917 of 2007 filed by the petitioner earlier for staying the operation and implementation of the impugned award passed by the learned Tribunal. Thereafter, the writ petition has been pending before this Court for adjudication and disposal.

8. In the meantime, the present interlocutory application i.e. I.A. No.5880 of 2017 has been filed by the petitioner- Management due to the reason that the coercive measures are being taken by the concerned court below in matter of the prosecution launched against the petitioner for non- implementation of the impugned award. Learned counsel for the petitioner also tenders a copy of the certificate given by the concerned lawyer in support of his submission that non-bailable warrants have been issued against the officers of the petitioner- Management vide order dated 3rd October, 2017 passed in L.E.O. Case No.23 of 2008.

9. Considering the aforesaid facts and circumstances, I find it appropriate to stay the operation and implementation of the impugned award dated 3rd August, 2006 passed by the Central Government Industrial Tribunal No.1, Dhanbad in Ref.

No.164 of 1999. Accordingly, the operation and implementation of the impugned award dated 3rd August, 2006 is hereby stayed till disposal of the writ petition.

10. I.A. No.5880 of 2017 stands disposed of. I.A. No.2917 of 2007:

11. In view of the order passed in I.A. No.5880 of 2017, learned counsel for the petitioner-Management does not press this interlocutory application.

12. Accordingly, I.A. No.2917 of 2017 is disposed of as not pressed. W.P.(L) No.2298 of 2007:

13. Put up this case under the heading For Hearing on 18th January, 2018.
(Rajesh Shankar, J.) Sanjay/

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