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Court : Jharkhand

Decided On : Apr-01-2008

Reported in : [2008(117)FLR1170]; [2008(2)JCR518(Jhr)]

Judge : R.K. Merathia, J.

Appellant : Sandhya Devi

Respondent : The Management of Bokaro Steel Plant of Steel Authority of India Ltd.

Advocate for Pet/Ap. : Mr. Baban Lal

Disposition : Petition dismissed

Judgement :

ORDER

R.K. Merathia, J.

1. Heard the parties finally.

2. Petitioner being the wife of deceased workman-Ambuj Das has challenged the Award dated 18.12.2006 passed by the Labour Court, Bokaro Steel City in Reference Case No. 8 of 2002.

The following dispute was referred for adjudication:

Whether, on the basis of charge sheet letter No. Pers/W oo/C.O.D./114 F.D.Y./55/2000-245 dated 2.8.2000, dismissal of Sri Ambuj Das Staff No. 423278, Purb Take/Elec. Steel Foundary, Bokaro Steel Plant, is justified? If not what relief he is entitled to

The following charges were levelled against the husband of the petitioner:

- (i) Giving false information regarding once particular's for the purpose of obtaining employment in the company.
- (ii) Contracting another marriage while first wife is still alive.
- (iii) Submission of false non-encumbrance certificate for the purpose of taking house building advance loan from the company.

3. The Labour Court on recording the statement of petitioner (first wife) held that the charge No. (ii) was not proved. But it held that the charges Nos. (i) and (iii) were proved, which were serious in nature, and therefore the punishment of dismissal was justified.

Regarding the claim of the workman that he was the dependant of his uncle Kulu Das, it was found that Kulu Das had no concern with the workmen, but he got his name included in the dependant of Kulu Das in a wrong manner and therefore the displaced person certificate was cancelled by D.P.L.R. on 18.4.2000.

With regard to charge No. 3 it was found that the purported Non-Encumbrance Certificate No. 178 dated 26.5.1995 (Exhibit M-25) was not issued from the concerned office and the same was forged and fabricated on the basis of which petitioner took house loan.

4. Mr. Baban Lal, appearing for the petitioner, with regard to the said finding against charge No. (i), submitted that the Labour Court should have decided, whether the said order dated 18.4.2000, passed by D.P.L.R., cancelling the displaced person certificate, was correct or not.

The said submission of Mr. Lal, is wholly unacceptable. On the basis of the materials on the record, the Labour Court rightly held that the displaced person certificate was forged and fabricated and while relying on the said order dated 18.4.2000 passed by D.P.L.R., cancelling the displaced person certificate, rightly observed that it cannot sit as an appellate Court, over such order of D.P.L.R.

5. Mr. Lal did not challenge the findings with regard to the Charge No. (iii).

6. Mr. Lal, lastly submitted that the workman died during the enquiry before the Labour Court and therefore the order of termination against a dead person has become non-existent in law.

This submission is wholly misconceived. The Labour Court was to decide whether on the basis of the said charges, dismissal of the workman was justified or not and if not what relief he was entitled to. Moreover, petitioner, claiming to be the first wife of the workman, got herself substituted and pursued the matter before the Labour Court.

7. Both the charges (i) and (iii) were of using forged and fabricated documents, (for getting employment; and then obtaining house loan, respectively) which were fully proved and therefore it was rightly held that the dismissal of the workman on the said charges was justified. In AIR 1996 SC 2592 (Satyam Fibres), it is said that fraud cuts at the root and fraud and justice never dwell together. After going through the entire materials on record. I am satisfied that the Labour Court on consideration of the materials on record has reached to correct findings, It has taken into consideration the relevant aspect of the matter. It is settled law that writ Court cannot sit as an appellate Court over the Award. The scope of enquiry under writ jurisdiction is limited.

8. I do not find any illegality or perversity calling for interference in the impugned Award. Accordingly, this writ petition is dismissed. However, no costs.