

Sheo Narain Singh Vs. the Mining Area Development Authority, Through Its Secretary, M.A.D.A,

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Court : Jharkhand

Decided On : Apr-20-2006

Reported in : [2006(3)JCR55(Jhr)]

Judge : S.J. Mukhopadhaya and; D.K. Sinha, JJ.

Acts : Bihar Coal Mines Area Development Authority Act; Industrial Dispute Act, 1947 - Sections 10 and 25F

Appeal No. : Letters Patent Appeal No. 216 of 2004

Appellant : Sheo Narain Singh

Respondent : The Mining Area Development Authority, Through Its Secretary, M.A.D.A, ;The Managing Director, Minin

Advocate for Def. : Aparesh Kumar Singh, Adv.

Advocate for Pet/Ap. : Ajit Kumar and; M.K. Sinha, Adv.

Disposition : Appeal dismissed

Judgement :

D.K. Sinha, J.

1. The writ petitioner/appellant, Sheo Narain Singh, was appointed in the Jharia Mines Board of Health on 26th September, 1973 for a period of two months as Encroachment Inspector on a consolidated salary of Rs. 190/- per month subject to approval of Jharia Mines Board of Health. The said appointment of two months was approved. The appellant, Sheo Narain Singh, thereafter represented for granting him the scale of pay of Lower Division Clerk and to designate him as Land Inspector but he was asked to continue until further order. The Board having considered his claim re-designated him as Encroachment Guard on 24th May, 1975 and he was asked to work under one Ramdeo Singh, Estate Supervisor, but the appellant did not choose to join the duties. The Jharia Mines Board of Health by the order dated 16th June, 1975 asked the appellant, Sheo Narain Singh, as to why a disciplinary action be not taken against him having flouted the direction to join under Ramdeo Singh, Estate Supervisor. Few days thereafter emergency was proclaimed in the country on 24th June, 1975 whereinafter by order dated 27th June, 1975 the services of appellant was terminated on the ground that his services was no longer required under the Board. The Jharia Mines Board of Health and Jharia Water Board were dissolved in pursuance of Bihar Coal Mines Area Development Authority Act and Mineral Area Development Authority (hereinafter referred to as 'MADA') came into existence and took the control of management. At the instance of appellant, the State Government in exercise of its power conferred upon it under Section 10(i)(c) of the Industrial Dispute Act, 1947 referred to following dispute for adjudication:

Whether the termination of services of Sri Sheo Narain Singh, Encroachment Inspector is legal and justified? If not what relief he is entitled to?

2. A reference case No. 11/1983 was registered wherein the Tribunal answered the reference in favour of appellant, Sheo Narain Singh. The Respondent-Management thereafter preferred a Writ Petition C.W.J.C.No. 1821/1986(R) before Ranchi Bench of Patna High Court. By an order dated 6th January, 1987 a Division Bench at the time of admission itself upon taking into consideration the case of the Management that the services of the appellant was terminated for the acts of his misconduct, held that in such situation, the provision of Section 25F of the Industrial Dispute Act was not applicable, the award was set aside and the

case was remitted to the Labour Court to consider the evidence on record for the purpose of arriving at a finding as to whether the appellant was guilty of the charges levelled against him by the Management. The Labour Court, Bokaro thereafter allowed the parties to lead evidence and by its award dated 12th March, 1987 justified the order of termination as legal.

3. The appellant challenged the said award dated 12th March, 1987 before the Ranchi Bench of Patna High Court in C.W.J.C.No. 887/1987(R), the High Court having noticed the rival contention including the fact that the appellant was re-designated as Encroachment Guard prior to his termination, held that in the peculiar facts and circumstances of the case the services of appellant should not have been terminated and he should be directed to be re-instated in the service without any back wages. The award dated 12th March, 1987 was modified to that extent by judgment dated 25th January, 1991.

4. Thereafter the appellant having been re-instated as Encroachment Guard moved before this Court in C.W.J.C.No. 1501/1997(R), prayer was made to direct the Management to re-instated him as 'Encroachment Inspector' and not as 'Encroachment Guard'. By impugned judgment dated 12th January, 2004 learned Single Judge while dismissing the writ petition rejected the contention of appellant that he was reduced in rank by designating him as 'Encroachment Guard'.

5. The only question agitated and required to be determined whether the appellant should have been re-instated as 'Encroachment Inspector' or as 'Encroachment Guard'?

6. It has already been noticed that the appellant was re-designated on 24th May, 1975 as Encroachment Guard. He having refused to work as Encroachment Guard his services were terminated on 27th June, 1975. In such a situation, the order of termination is set aside, he automatically stood re-instated as 'Encroachment Guard' and not as 'Encroachment Inspector', the order of re-designation having not been interfered with by any court of law merely the designation of appellant was shown as Encroachment Inspector in the reference as was made will not clothe him with the designation and post of Encroachment Inspector. The High Court while ordered to re-instate the appellant by judgment

dated 25th January, 1991 passed in C.W.J.C.No. 887/1987 (R) noticed the following facts and made following observations:

As has been indicated hereinbefore, it is further evident that the petitioner had raised various grievance with the management relating to his re-designation from Encroachment Inspector to Encroachment Guard and lowering down to his scale of pay.

According to the workmen, the act of management in asking him to work under a person who was less qualified than him had also not been considered on its proper perspective.

Taking thus all facts and circumstances into consideration and further keeping in view the nature of the misconduct alleged against the workmen, I think that in the peculiar facts and circumstances of the case, it may be held that the petitioner's service should not have been terminated and in that view of the matter, in my considered view, he should be directed to be reinstated in service without any back wages.

In the result, this writ application is allowed impart and the award dated 12th March, 1987(Annexure-9) to the writ application is modified to the effect that the petitioner No. 1 directed to be reinstated in service without any back wages.

7. In the facts and circumstances, we find no ground made out to interfere with the order passed by the learned Single Judge. There being no merit, this appeal is dismissed. However, there shall be no order as to costs.