

**SUPREME COURT OF INDIA**

General Secretary, Coal Washeries Workers Union Dhanbad

Vs.

Employers in relation to the Management of Dugda Washery of M/s BCCL

C.A.No.9278 of 2014

(T.S.Thakur,CJI., A.M.Khanwilkar and Dr. D.Y. Chandrachud,JJ.,)

23.09.2016

**JUDGMENT**

**A.M. Khanwilkar,J.,**

1. The short question to be considered in this appeal in terms of order dated 27th August 2012 passed by this Court while issuing notice to the respondent-Management is: the quantum of the lump sum amount which needs to be paid to the workmen concerned in lieu of reinstatement.

2. Briefly stated, the appellant raised an industrial dispute which was referred to the Central Government Industrial Tribunal at Dhanbad, for adjudication, as under:-

“Whether the 35 persons whose names are shown in the Annexure and who were employed by M/s. Triveni Engineering Works, a Contractor at Dugda Coal Washery are to be treated as workmen of M/s BCCL and whether the demand of the Coal Washeries Workers Union that these persons be regularized/absorbed in the services of M/s. BCCL is justified? If so, to what relief are these persons entitled?”

3. The Industrial Tribunal vide award dated 17th June 1997, answered the reference in favour of the appellant and directed the Management to reinstate and regularize the concerned 35 workmen w.e.f. 1st July 1990, with payment of 30% full back wages within two months from the date of publication of the award in the Official Gazette of India. The respondent-Management challenged the said award by way of Writ Petition being Civil Writ Jurisdiction Case No.3443/1997(R). The learned Single Judge of the High Court of Jharkhand at Ranchi, vide final judgment dated 6th May 2003, dismissed that Writ Petition and affirmed the view taken by the Tribunal. The respondent carried the matter in appeal by way of Letters Patent Appeal No.422/2004 before the Division Bench. The Division Bench vide judgment dated 5th January 2012, did not doubt the correctness of the findings of the Industrial Tribunal or the learned Single Judge on the factum of 35 persons to be treated as workmen of the respondent. It, however, accepted the plea of the respondent that after a lapse of more than 20 years from stoppage of work of the subject workmen, an order of reinstatement will be

inequitable and must be eschewed. The Division Bench, therefore, modified the award in the following terms:

“We considered the submission of the learned counsel for the parties and we are of the view that even the Labour court was of the view that these workmen are not entitled to full back wages in view of the fact that they did not work and the back wages were also awarded w.e.f. 1st July 1990. The workmen worked from 1986-1990 for which they got their salary/wages and this fact is not in dispute. Thereafter the workmen are getting the benefit of the payment of wages in view of Section 17(b) of the Industrial Disputes Act, 1947 in view of the award dated 19th July 2007. In view of the above fact that these workmen are not working since 1990, we do not find it equitable to maintain the order to reinstate the employees after 20 years. So far as the compensation in lieu of the reinstatement is concerned, we deem it proper to award Rs.50,000/-(fifty thousand) to each of the workmen in addition to whatever amount has been paid to these workmen under Section 17(b) of the said Act by the appellant. With this modification, this LPA is partly allowed to the extent as indicated above.”

4. As aforesaid, this Court has entertained the present appeal limited to the question of quantum of the lump sum amount to be paid to the workmen concerned in lieu of reinstatement. It is not in dispute that the Management has paid wages to the workmen in terms of the order passed on an application under Section 17(B) of the Industrial Disputes Act, 1947 during the pendency of proceedings before the High Court. The question is: whether an amount of Rs.50,000/- determined by the Division Bench of the High Court to be paid to the workmen in addition to whatever amount has been paid to them under Section 17(B) of the Industrial Disputes Act, 1947 is adequate.

5. Considering the arguments of both sides, in our opinion, the Division Bench was right in observing that, in the facts of the present case, an order of reinstatement must be eschewed, being inequitable. The workmen, however, must be compensated in lieu of reinstatement. Applying the principle underlying the decisions of this Court in *Ruby General Insurance Co. Ltd. vs. P.P. Chopra*<sup>1</sup> and the recent case of *Delhi International Airport (P) Ltd. vs. Union of India*<sup>2</sup>, in our considered opinion, interest of justice would be met by enhancing the amount of compensation in lieu of reinstatement/absorption and regularisation quantified at Rs.1,50,000/-(Rupees One Lakh Fifty Thousand) to each workmen. For, the workmen have already received wages from October 2004 to January 2012 in terms of the order under Section 17(B) of the Industrial Disputes Act, 1947 without any work assigned to them. The respondent paid minimum wages to the concerned workmen during the relevant period as the workmen were not able to produce any document in support of their last drawn wages.

6. This lump sum compensation amount of Rs.1,50,000/- to each workmen would be in full and final settlement of all the claims of the concerned workmen and substitute the order passed by the Tribunal to that extent, without any further enquiry as to whether the concerned workmen was gainfully employed during the relevant period or not.

7. The respondent shall deposit the amount payable in terms of this order to the workmen before the Central Government Industrial Tribunal, Dhanbad, within three months from today. Failing which, shall be liable to pay interest thereon at the rate of 10% p.a. from today till the amount is deposited or paid to the concerned workmen, whichever is earlier. The Central Government Industrial Tribunal, Dhanbad, shall cause to disburse the amount to the concerned workmen subject to verification.

8. The appeal succeeds in the above terms with no order as to costs.

Judgment Referred.

<sup>1</sup>(1970) 1 Lab LJ 0063

<sup>2</sup>(2011) 10 SCALE 0478