

IN THE HIGH COURT OF JHARKHAND AT RANCHI

[Civil Writ Jurisdiction]

W.P.(L) No. 6550 of 2010

The Management of M/S Safex Flame Proof Controls [Pvt.] Ltd.

.... .. Petitioner

Versus

Their Workmen represented through workmen Md. Ibrahim Ansari, S/o Late
Baksu Ansari, R/o Godtopa Govindpur, P.O. & P.S. Govindpur, Distrit- Dhanbad

.. .. . Respondent

.....
CORAM :HON'BLE MR. JUSTICE KAILASH PRASAD DEO
(Through :-Video Conferencing)

.....
For the Petitioner : Mr. Lukesh Kumar, Advocate

For the Respondent : Mr. Sanjay Prasad, Advocate

.....

15/ 06.09.2021.

Heard, learned counsel for the parties.

Appellant- Management of M/S Safex Flame Proof Controls Pvt. Ltd. has preferred this writ petition against the award dated 24.12.2009, passed by learned Presiding Officer, Labour Court, Dhanbad in Reference Case No.01 of 2004 wherein Industrial dispute has been referred before the Labour Court to adjudicate 'whether the termination of the workmen concerned is justified ?'

Learned counsel for the petitioner, Mr. Lukesh Kumar in support of his submission has placed paras 9 and 10 of the impugned award and submitted that the learned Tribunal has not considered that no evidence has been adduced on behalf of the workmen to show that workmen had worked for 240 days in a year preceding the year of the termination.

Learned counsel for the petitioner in support of his submission has placed reliance upon the judgment passed by the Apex Court in the case of *Range Forest Officer vs. S.T. Hadimani*, reported in (2002) 3 SCC 25, *Krishna Bhagya Jal Nigam Ltd vs. Mohd. Rafi*, reported in (2006) 9 SCC 697, *Surendranagar Distt. Panchayat & Anr. vs. Gangaben Laljibhai & Ors.*, reported in (2006) 9 SCC 132 and *Surendranagar District Panchayat & Anr. vs. Jethabhai Pitamberbhai*, reported in (2005) 8 SCC 450.

Learned counsel for the petitioner has further submitted that co-ordinate Bench of this Court vide order dated 14.09.2011 has issued notice upon respondent granting interim protection, which was continued on 18.10.2011 as the respondent has not appeared.

Learned counsel for the petitioner has further submitted that since the award is contrary to the law as the labourers have failed to prove that they have worked for 240 days, as such, the impugned award may be set aside.

Learned counsel for the respondent, Mr. Sanjay Prasad has submitted that from perusal of the award at para 8 it would be apparent that Exhibit-W1 is the original Identity card issued by the company to the workman K. Bose. In the card employee's name is K. Bose and Designation is casual. This Identity card has been adduced on behalf of the management and has been exhibited by the Manager Account & Finance of the Company. Exbt. W-3 copy of the Identity card of S.Saw and I. Ansari show that they were also casual workers. The Audit Report Exbts. M-1 to Exbt. M-9 and 7 Tender enquiry of ONGC Exbt. M-11 to M-14 do not show that the workmen concerned were contract workers.

Learned counsel for the respondent has further submitted that learned Tribunal has taken note of the fact at para 9 of the impugned award, that non-production of attendance registers and Wage-sheet resister despite the direction of the court makes it clear that if these registers had been produced in the court these must have proved the above facts.

Learned counsel for the respondent has further submitted that this writ petition may be dismissed as it is devoid of merit as the claimants are the poor workmen and they have suffered since long time, as such, some costs may also be imposed.

Considering the rival submissions of the parties, call for the LCR from the court of learned Presiding Officer, Labour Court, Dhanbad in Reference Case No.01 of 2004 (along with Exhibits and ordersheets), which has been disposed of on 24.12.2009.

In the meantime, this Court appoints learned counsel, Mr. Nipun Bakshi to act as the Amicus Curaie to assist this Court.

Mr. Lukesh Kumar is directed to serve one copy of writ petition along with the Annexures and award as well as any relevant documents upon learned counsel, Mr. Nipun Bakshi by day after tomorrow.

Put up this case on 23.09.2021.

In the meantime, interim order dated 14.09.2011 and dated 30.08.2018 shall continue.

(Kailash Prasad Deo, J.)