

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(L) No. 2852 of 2019

.....
1. Pradeep Kumar Roy, S/o Bhim Prasad Roy, aged about 39 years. Resident of village Baghmara, Harladangal, PO- Dumriya, PS- Palajori, Nawadih, District- Deoghar,

2. Nabam Kumar Roy, S/o Dhirendra Nath Roy, aged about 49 years, Resident of village- Sarath, PO & PS- Sarath, District- Deoghar.

3. Ishwar Pandit S/o Jay Narayan Pandit, aged about- 44 years, Resident of village- Domnatand, PO & PS- Domnatand, District- Deoghar.

4. Tinku Rawani, S/o Mohan Rawani, aged about- 31 years, Resident of Ward No. 15, S.R. Dalmiya Road, Madhupur, PO & PS- Madhupur, District-Deoghar.

5. Sonalal Soren, S/o Chhota Soren, aged about- 48 years, Ward No. 10, G.P.Guriya, Po & PS- Madhupur, District- Deoghar.

6. Musho Pandit, S/o Bubhnewar Pandit, aged about 43 years, resident of village-Sarath, P.O. & P.S. Sarath; District-Deoghar.

..... Petitioner (s)

Versus

1. The State of Jharkhand.
2. The Executive Engineer, P.H.E.D., Peyajal Swachhata Bibhag, Sub division-Madhupur, P.O. & P.S. Madhupur, District-Deoghar.
3. Superintending Engineer, P.H.E.D., Peyajal Swachhata Bibhag, Sub division-Madhupur, P.O. & P.S. Madhupur, District-Deoghar.

..... Respondent(s)

with

W.P.(L) No. 3783 of 2019

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Dinesh Poddar, aged about 54 years, son of Dilip Poddar, resident of village Salona Tarh, P.O. & P.S. Deoghar, District-Deoghar.

..... Petitioner (s)

Versus

1. The State of Jharkhand.
 2. The Executive Engineer, Drinking Water and Sanitation Department, Govt. of Jharkhand, Sub-Division Madhupur, P.O. and P.S. Madhupur, District Deoghar.
 3. The Superintending Engineer, Drinking Water and Sanitation Department, Govt. of Jharkhand, Sub-Division Madhupur, P.O. and P.S. Madhupur, District Deoghar.
- Respondent(s)**

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Saurabh Shekhar, Adv

For the Respondent(s) : Mr. Divyam, A.C. to S.C.-IV

(in W.P.(L) No. 2852 of 2019)

Mr. Ashwini Bhushan, A.C. to Sr.S.C.-II

(in W.P.(L) No. 3783 of 2019)

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C.A.V. ON 02/12/2025

PRONOUNCED ON:03/02/2026

1. Heard learned counsel for the parties.
2. These writ petitions, W.P. (L) No. 2852 of 2019 filed by Pradeep Kumar Ray and others, and W.P. (L) No. 3783 of 2019 filed by Dinesh Poddar, bring forth common questions of law and have therefore, been considered together. The petitioners in these cases were employed as casual workmen by the Drinking Water and Sanitation Department, Government of Jharkhand. Their roles included nalkup-khalasi, hand pumpman, khalasi, handpump mechanic, and jhadukash. Each petitioner claims to have worked for various periods ranging between 1980 and 2017, completing more than 240 days of work each year.

3. The core grievance of the petitioners is that, after submitting representations seeking regularization of their services, their employment was terminated through oral orders. They were informed that reinstatement would be possible only if they agreed to contract employment. Dissatisfied, the petitioners raised an industrial dispute regarding their abrupt oral termination before the Executive Engineer and the Superintendent Engineer of the Drinking Water and Sanitation Department, Government of Jharkhand.

4. All six petitioners in W.P. (L) 2852/2019 signed a letter raising the industrial dispute dated March 24, 2017. This letter, annexed as Annexure-1 of the writ petition, was part of the record before the Labour Court, Deoghar, and it was also sent to the Assistant Labour Commissioner, Deoghar. Similarly, petitioner Dinesh Poddar sent a letter dated October 10, 2017, to the respondents, with a copy to the Assistant Labour Commissioner-cum-Conciliation Officer, Deoghar.

5. Despite the representations, the Conciliation Officer took no action. As a result, the petitioners approached the Labour Court at Deoghar under Section 2(A)(2) of the Industrial Disputes Act, 1947. The claims of Pradeep Kumar Roy and others were registered as ID Case No.

01/2017, while Dinesh Poddar's case was registered as ID Case No. 01/2018.

6. Before the Labour Court, the respondents did not contest the claims of the petitioners. The petitioners presented evidence, and the witnesses they produced were not even cross-examined. Nevertheless, the Presiding Officer, Labour Court, Deoghar, dismissed both cases. The primary reason for dismissal of the cases was the non-compliance with statutory requirements prescribed in Section 2(A)(2) of the Industrial Disputes Act, 1947.

The Labour Court held that there was no documentary proof that the petitioners had raised their claim before the Conciliation Officer. Further, the Court found that, in the absence of appointment letters, the petitioners' claims lacked credibility, rendering them ineligible for relief.

7. The petitioners, Pradeep Kumar Ray and five others, challenged the order/award dated March 2, 2019, passed in ID Case No. 01/2017, while Dinesh Poddar challenged the order/award of the same date in ID Case No. 01/2018. As stated hereinabove, both awards rejected the petitioners' cases for non-compliance with the statutory conditions under Section 2(A) of the Industrial Disputes Act, 1947.

8. The respondents submitted counter affidavits in these cases denying the petitioners' claims for the first time. It is

undisputed that they did not file a written statement/show cause petition before the Labour Court, Deoghar.

9. At this stage itself, it is pertinent to note that the High Court, when exercising its certiorari jurisdiction under Article 226 of the Constitution of India, will neither act as a court of first instance; nor consider the respondents' defenses, since they failed to file written statement despite ample opportunity in the Labour Court.

10. The fundamental question in these writ petitions is whether a deemed reference under Section 2(A)(2) of the Industrial Disputes Act, 1947 existed, and whether the claims should have been adjudicated on their merits. Section 2(A) provides that the dismissal, discharge, retrenchment, or termination of an individual workman is to be deemed an "industrial dispute", even if no other workman or union is party to the dispute. The section was amended w.e.f. September 15, 2010, by inserting subsection (2), allowing a workman to directly approach the Labour Court or Tribunal after 45 days have elapsed from the date an application is made to the Conciliation Officer. The provision of law reads as follows:-

2A. *Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.—*

(1) *Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial*

dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

11. In the present cases, the petitioners raised grievance against their oral termination before their employer, and copies of relevant letters were sent to the Assistant Labour Commissioner, Deoghar. The Assistant Labour Commissioner, upon being aware of the petitioners' grievances, should have initiated conciliation proceedings by notifying both parties. Since no action was taken, the petitioners directly approached the Labour Court at Deoghar.

12. The Hon'ble Supreme Court in ***Workmen of M/s. Firestone Tyre & Rubber Co. of India (P) Ltd. v. Management*** reported in ***[(1973) 1 SCC 813]*** has held that the Labour Court is required to adjudicate the dispute on merits, and procedural technicalities should not defeat substantive rights.

In the instant matter, the Labour Court has dismissed the cases, as in its opinion, no formal application was

submitted before the Conciliation Officer. The petitioners' however, had sent copies of the letters addressed to their employer stating the dispute and demanding redressal of their grievances. This is sufficient compliance with the requirement of making application in Section 2A(2) of the Industrial Disputes Act, 1947.

The Labour Court should not have applied strict and literal interpretation and was required to only ensure that there is substantive compliance with the statutory provisions. In this connection, the Hon'ble Supreme Court in ***Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai***, reported in **(1976) 3 SCC 832** has made following pertinent observations: -

*"7. Fairness to respondent's Counsel constrains us to consider in limine a flawsome plea forcibly urged that the union figured as the appellant before us but being no party to the dispute (which was between the workers on the one hand and the establishments on the other) had no locus standi. No right of the union qua union was involved and the real disputants were the workers. Surely, there is terminological lapse in the cause title because, in fact, the aggrieved appellants are the workers collectively, not the union. But a bare reading of the petition, the description of parties, the grounds urged and grievances aired, leave us in no doubt that the battle is between the workers and employers and the union represents, as a collective noun, as it were, the numerous humans whose presence is indubitable in the contest, though formally invisible on the party array. **The substance of the matter is obvious and formal defects, in such circumstances, fade away. We are not dealing with a civil litigation governed by the Civil Procedure Code but with an industrial dispute where the process of conflict resolution is informal, rough-and-ready and invites a liberal approach. Procedural prescriptions are hand-maids, not mistresses, of justice and failure of fair play is the spirit in which courts must view processual deviances.** Our adjectival branch of jurisprudence, by and large, deals not with sophisticated litigants but the rural poor, the urban lay and the weaker societal segments for whom law will be an added terror if technical misdescriptions and deficiencies in drafting pleadings and setting out the cause title create a secret weapon to non-suit a party. Where foul play is absent, and fairness is not faulted, latitude is a grace of processual justice. Test litigations, representative actions, pro bono publico and like broadened forms of legal proceedings are in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass the real issues on the merits by suspect reliance on peripheral, procedural shortcomings.*

Even Article 226, viewed in wider perspective, may be amenable to ventilation of collective or common grievances, as distinguished from assertion of individual rights, although the traditional view, backed by precedents, has opted for the narrower alternative. Public interest is promoted by a spacious construction of locus standi in our socio-economic circumstances and conceptual latitudinarianism permits taking liberties with individualisation of the right to invoke the higher courts where the remedy is shared by a considerable number, particularly when they are weaker. Less litigation, consistent with fair process, is the aim of adjectival law. Therefore, the decisions cited before us founded on the jurisdiction under Article 226 are inept and themselves somewhat out of tune with the modern requirements of jurisprudence calculated to benefit the community. Two rulings of this Court more or less endorse this general approach: Dabholkar [Bar Council of Maharashtra v. M.V. Dabholkar, (1975) 2 SCC 702 : (1976) 1 SCR 306] and Newabganj Sugar Mills [Newabganj Sugar Mills Co. Ltd. v. Union of India, (1976) 1 SCC 120].”

(Emphasis Supplied)

13. Further, the relationship of employer and employee can be established through oral evidence and circumstances, not solely by appointment letters. The Hon’ble Supreme Court has warned against defeating the objectives of beneficial labour legislation on technical grounds, underlining the need for substantive justice.

14. Having regards to the above, this Court is having no hesitation in holding that the Presiding Officer of the Labour Court, Deoghar, failed to consider the letters (Annexure-1) that were on record in both writ petitions. The finding that no application was made to the Conciliation Officer contradicts the evidence and is patently perverse.

In other words, the Labour Court has adopted a hyper-technical approach which is incorrect. Further, as soon as the labour authorities became aware of the industrial dispute it was their duty to initiate conciliation process. The workmen waited for 45 days which is the condition

precedent for approaching the Labour Court.

15. Moreover, the respondents did not challenge the order of the Labour Court, Deoghar, that barred them from filing their reply or written statement. They cannot now seek to reopen the cases before the High Court examining the legality of industrial awards in judicial review.

It would be highly improper to decide the merits as a court of first instance when several disputed questions of facts are involved.

16. The Labour Court, Deoghar, also committed a significant error in examining uncontested evidence regarding the petitioners' engagement and employment by verbal orders. If the Labour Court found that the prerequisite conditions for invoking its jurisdiction were not fulfilled it should have confined the case to maintainability only instead of examining the merits of the dispute.

It is inconceivable as to how the Labour Court could first hold that it lacks jurisdiction to adjudicate the dispute under Section 2A of the Industrial Disputes Act, 1947 and then examine the entire evidence and records. Therefore, the findings in the awards are illegal and unsustainable and liable to be set aside.

17. Given these circumstances, the cases before the Labour Court require fresh examination. An order of

remand would be best serve the ends of justice. The respondents may avail themselves of the opportunity before the Labour Court to file appropriate applications for permission to submit their written statements and/or adduce evidence etc., which shall be considered by the Labour Court strictly in accordance with law. The Labour Court should also decide the case expeditiously.

18. Consequently, these petitions stand disposed of. Pending I.A.s, if any, also stands disposed of.

(Deepak Roshan, J.)

Dated:03 / 02/2026
Amardeep/
A.F.R

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