

Ganapati Bhikarao Naik
v.
Nuclear Power Corporation of India Limited
(Civil Appeal No(s). 6591-6592 of 2024)
13 November 2024
[Hrishikesh Roy,* and S.V.N. Bhatti, JJ.]

Issue for Consideration

Whether the High Court was correct in setting aside the Award passed by Labour Court wherein Labour Court allowed the reinstatement of the employee with full back wages, continuity of service, and all other consequential benefits that the employee could have received in the absence of the order of removal from service.

Headnotes[†]

Industrial Disputes Act, 1947 – Whether the appellant, as a family member of a land-loser, whose land was acquired for the Kaiga Atomic Power Project, had legally secured the job as the son in-law, of the land-loser:

Held: Appellant claims to have married the daughter of the land loser, thus was appointed as a helper in the Project, as a family member of the land loser – Later, matrimonial differences arose and divorce was granted on account of the estrangement between the appellant and his wife, the father in law (land loser) made complaints against the appointment of appellant in the Project – The resultant inquiry was answered against appellant and the said decision led to the termination of the appellant – The said termination was challenged eventually before the Labour Court – The Labour Court after assessing that the divorce proceeding was initiated for maintenance by appellant's wife – The Labour Court held that this itself would be enough to establish that the appellant had married Smt. Ganga (daughter of land loser) – The Labour Court concluded that termination of appellant was illegal, he should be reinstated

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**Ganapati Bhikarao Naik v.
Nuclear Power Corporation of India Limited**

with full back wages – This award was challenged before High Court – The High Court while concluding, overlooked the family details recorded by the employer which indicates Smt. Ganga as the wife of the employee also the Ration Card has the same family details of the appellant – The Court also failed to appreciate that the learned Labour Court reached the factual conclusion, after due consideration of the material evidence – Therefore this Court held that the Award in favour of the appellant, granted by the Labour Court, was erroneously disturbed by the learned Single Judge, thus impugned judgment is set aside – Reinstatement of appellant allowed but the appellant shall not be entitled to any back wages from the date of the order of the Single Judge of the High Court until his reinstatement – This Court is not in favor to wait for the decision in *Bharat Fritz Werner Ltd., Bangalore v. Bharat Fritz Werner Karmika Sangha, Bangalore* as the said case relates to maintainability of Writ Appeal challenging the order of the learned Single Judge arising out of an Award passed by the Labour Court. [Paras 11, 12, 13]

List of Acts

Industrial Disputes Act, 1947.

List of Keywords

Reinstatement of employee; Industrial Dispute Act.

Case Arising From

CIVIL APPELLATE JURISDICTION : Civil Appeal No(s). 6591-6592 of 2024

From the Judgment and Order dated 16.12.2020 and 10.04.2023 of the High Court of Karnataka Circuit Bench at Dharwad in WP No. 71540 of 2012 and WA No. 100026 of 2021 respectively

Appearances for Parties

K. Parameshwar, Sr. Adv., Kailas Bajirao Autade, Prasad Hegde, Ms. Kanti, Ms. Chitransha Singh Sikarwar, Shreenivas Patil, Ms. Raji Gururaj, Advs. for the Appellant.

A. P. Singh, Varnit Vashistha, Tavinder Sidhu, Ms. Shrinkhla Tiwari, M/s. M. V. Kini & Associates, Advs. for the Respondent.

Digital Supreme Court Reports**Judgment / Order of the Supreme Court****Order****Hrishikesh Roy, J.**

1. Heard Mr. K. Parameshwar, learned senior counsel appearing for the appellant.
2. Ms. Shrinkhla Tiwari, learned counsel appears for the respondent – Nuclear Power Corporation of India Limited (Management). She submits that the present case should await the decision in *Management of Bharat Fritz Werner Ltd., Bangalore v. Bharat Fritz Werner Karmika Sangha, Bangalore*, which is pending before this Court in SLP (Civil) Nos. 12658 of 2022 and 12702 of 2022. The said case relates to whether a Writ Appeal before the Division Bench is maintainable from the judgment of the Single Judge in the Writ Petition, challenging the Award of the Labour Court, as in the present case.
3. This Court is called upon to examine the legality of the judgment dated 16.12.2020 passed by the learned Single Judge, setting aside the Award dated 09.08.2012. Therefore we feel that this Court need not await the outcome of the decision in *Management of Bharat Fritz Werner Ltd., Bangalore*, which pertains to intra-court appeal before the Division Bench, challenging the order of the learned Single Judge arising out of an Award passed by the Labour Court.
4. The core issue in the present case is whether the appellant, as a family member of a land-loser, whose land was acquired for the Kaiga Atomic Power Project, had legally secured the job as the son-in-law, of the land-loser. Also if the findings recorded in the impugned judgment valid and reasonable.
5. On 07.05.1990, the appellant claims to have married one Smt. Ganga, the daughter of *Bellanna Venkanna Gowda* of Devkar Village, who was the owner of land under Survey No.71/2. A portion of the said land was acquired for the Kaiga Atomic Power Project. Accordingly, the land-loser - *Bellanna Venkanna Gowda* applied for a certificate for availing a job for his son-in-law – *Ganapati Bhikarao Naik* (the appellant), as part of rehabilitation package. Such a Certificate was granted in favour of the appellant on 21.08.1990 (Annexure R/2)

**Ganapati Bhikarao Naik v.
Nuclear Power Corporation of India Limited**

by the Special Land Acquisition Officer, Kali River Project, Dandeli (Uttar Kannada). The appellant was then interviewed for the job and was given appointment as a Helper in the Corporation. In the Attestation Form, furnished by the appellant to the Management, the name of Smt. *Ganga* was shown as the employee's wife. The said information was counter-signed by the Chief Administrative Officer of the Management. In the Ration Card issued to the appellant, Smt. *Ganga* was mentioned as the appellant's wife, along with other family members.

6. However, matrimonial differences cropped up and Smt. *Ganga* shifted to her father's house. Even at that stage, on 24.05.1997, the land-loser in his communication to the Senior Manager (Administration & Labour Relation) (Annexure R/6) stated that although his daughter Smt. *Ganga*, being mentally disturbed, is currently not staying with his son-in-law in recent times, neither he nor his family members, have any objection for confirmation of the job of the appellant, at the Kaiga Atomic Power Project.
7. The appellant around that period, filed an application under Section 13 of the Hindu Marriage Act, 1955 seeking divorce from Smt. *Ganga*. The said proceeding concluded with a consent decree of divorce granted on 16.06.2001.
8. In the meantime, on account of the estrangement between the appellant and his wife and the divorce proceeding initiated by appellant, his father-in-law made complaints, which led to issuance of the charge memo dated 10.01.2000, with the allegation that the appellant is not married to Smt. *Ganga* (the daughter of the land-loser) and therefore he is disentitled to secure the job intended for a land-loser's family member. The resultant inquiry was answered against appellant and the said decision led to the termination order dated 19.04.2002. The appellate authority and the revisional authority upheld the termination order, which prompted the appellant, to seek a Reference under the Industrial Disputes Act, 1947.
9. The Central Government Industrial Tribunal-cum-Labour Court in the Reference i.e., CR No. 66 of 2007, from the evidence of the witnesses concluded that the appellant had married Smt. *Ganga* (the daughter of the land-loser - *Bellanna Venkanna Gowda*) but when the matrimonial relationship became strained and divorce proceeding was initiated, Smt. *Ganga* applied for maintenance, claiming to be the appellant's

Digital Supreme Court Reports

wife. The Labour Court accordingly concluded that this itself would be enough to establish that the appellant had married Smt. *Ganga* (the daughter of the land-loser - *Bellanna Venkanna Gowda*) and at the instance of the said land-loser, he was given appointment under the prevalent Scheme intended for the land-loser's family member. The Reference was accordingly answered favouring the appellant and the following Award was passed:

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AWARD

The reference is allowed holding that the action of the management of Nuclear Power Corporation Ltd., Kaiga in imposing the penalty of removal from service on Shri Ganapthi B Naik w.e.f. 19.04.2002 is illegal and not justified and that he is entitle for reinstatement with full back wages, continuity of service and all other consequential benefits that he could have received in the absence of the impugned order of removal from service.”

10. The aggrieved Management then filed the W.P. No. 71540 of 2012 (L-TER) to challenge the said Award. The Writ Court had no occasion to stay the Award and instead on 06.06.2014, passed an interim order to ensure remittance of wages payable to the appellant. However under the impugned final judgment dated 16.12.2020 the learned Judge reached the conclusion that the appellant had misrepresented that he is the son-in-law of the land-loser (*Bellanna Venkanna Gowda*) and secured the job by playing fraud with the Management.
11. The above conclusion of the learned Single Judge was reached without appropriately considering the divorce proceeding between the appellant and his wife - *Ganga*. The Court also overlooked the family details recorded by the employer (Annexure R/4) which indicates *Smt. Ganga* as the wife of the employee. The Ration Card also has the same family details of the appellant.
12. The relevant materials reflecting the marriage of the appellant with *Smt. Ganga* was however ignored by the Writ Court. The Court also failed to appreciate that the learned Labour Court reached the factual conclusion, after due consideration of the material evidence. Such factual finding of the Labour Court should not normally be disturbed by a Writ Court without compelling reason. Such reasons are absent.

**Ganapati Bhikarao Naik v.
Nuclear Power Corporation of India Limited**

Therefore we feel that the Award in favour of the appellant, granted by the Labour Court, was erroneously disturbed by the learned Single Judge.

13. The above discussion persuades us to hold that the appellant is entitled to relief, in terms of the Labour Court's Award dated 09.08.2012 with consequential service benefits. But allowing backwages may not be justified. It is therefore made clear that the reinstated employee, shall not be entitled to any back wages from 16.12.2020, when the learned Single Judge set aside the Award, till he is reinstated. However, the gap period i.e. 16.12.2020 till reinstatement, should be taken into account for all other service benefits. The appellant is ordered to be reinstated in service, within four weeks from today.
14. With the above, the appeals stand allowed leaving the parties to bear their own cost.

Result of the case: Appeals allowed.

[†]*Headnotes prepared by:* Gaurav Upadhyay, Hon. Associate Editor
(Verified by: Shadan Farasat, Sr. Adv.)