

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (L) No. 243 of 2024

1. Sova Ganguly, aged about 79 years, wife of Sri P.N. Ganguly, resident of B/2 Raju Bagan, West Kitadih, P.O. and P.S. Parsudih, Town Jamshedpur, District East Singhbhum at Jamshedpur (Jharkhand).
 2. Smt. Raj Kumari, aged about 69 years, wife of Late Mangal Das, resident of Holding No.30, Namda Basti, New Lay out, P.O. and P.S. Golmuri, Town Jamshedpur, District East Singhbhum at Jamshedpur (Jharkhand).
 3. Hiralal Singh, aged about 74 years, son of Mahabir Singh, resident of Qr. No. C2/59, Indranagar, P.O. and P.S. Telco, Town Jamshedpur, District East Singhbhum at Jamshedpur (Jharkhand).
 4. Smt. Margaret Kar, aged about 73 years, wife of Sri Kalipada Kar, resident of Zone No.3, Qr. No.38, A Block, Birsanagar, P.O. and P.S. Telco, Town Jamshedpur, District East Singhbhum at Jamshedpur (Jharkhand).
- **Petitioners**

Versus

1. The State of Jharkhand through the Chief Secretary, Department Employment and Government of of Labour, Skill Development, Jharkhand, Jharkhand Mantralaya, Nepal House, Doranda, P.O. and P.S. Doranda, District Ranchi. Through its General Manager (HR/IR & Administration)
2. M/S Indian Steel & Wire Products Ltd. P.O. Indranagar, Jamshedpur, Indranagar P.O. and P.S. Telco, Town Jamshedpur, District East Singhbhum at Jamshedpur (Jharkhand).
3. M/s Tata Steel Limited through its Managing Director, Bistupur, P.O. and P.S. Bistupur, District Jamshedpur. East Singhbhum at Jamshedpur **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner	: Mr. Yogendra Prasad, Advocate
For the Respondents	: Mr. Gunendra Mohan Mishra, Advocate
	: Mr. J.N. Upadhyay, Advocate
For the State	: Mr. Sachin Kumar, AC to SC-I

04/10.06.2024

Learned counsel for the parties are present.

2. This writ petition has been filed for the following reliefs:-

“For issuance of an appropriate writ(s), order(s), direction(s) or a writ in the nature of certiorari for quashing and setting aside the order dated 31.03.2023 passed in M.J. Case No. 02 of 2011, M.J. Case No. 05 of 2011, M.J. Case No. 06 of 2011, and M.J. Case No. 07 of 2011 passed by Sri Ramashanker Singh, learned Presiding Officer, Labour Court, Jamshedpur whereby and

whereunder the plaint/application of the case has been rejected by a common order as contained in Annexure-3.

(ii) For issuance of an appropriate writ(s), order(s), direction(s) upon the Respondents to reinstate the petitioners in service with full back wages with consequential benefits and further be directed to the Respondent Nos. 2 and 3 to pay the wages with interest from the due date to the date of actual payment.

AND/OR

Pass such other order or orders as your Lordship may deem fit and proper in the facts and circumstance of the instant case.”

3. Learned counsel Mr. G.M. Mishra appears for the respondent Tata Steel Ltd. though virtual mode.

4. Learned counsel for the petitioners has submitted that a petition under section 33-C(2) of the Industrial Disputes Act was filed with a prayer to compute and determine the dues relating to wages, dearness allowance and other benefits for the period from 01.04.1998 to December 2003, but the respondents having opposed the prayer, the impugned order has been passed by observing that the case under section 33-C(2) of the Industrial Disputes Act, 1947 was not made out and the claim requires adjudication.

5. Learned counsel for the petitioners has referred to section 33-C(3) and (4) of the Industrial Disputes Act to submit that a Commissioner could have been appointed to determine the dues. He has also submitted that the respondent had pleaded that there was temporary closure but no document as such was produced before the learned Labour Court to substantiate the plea of temporary closure.

6. Learned counsel for the respondents has opposed the prayer and has submitted that the impugned order is a well-reasoned order and the claim being disputed, the petition under section 33-C(2) of the Industrial Disputes Act has been rightly rejected. It is for the petitioners to get their claim adjudicated and the petition was not maintainable.

7. After hearing the learned counsel for the parties and considering the facts and circumstances of this case this Court finds

that the petitioners claimed that they were employees of M/s. Indian Steel and Wire Products Ltd. which was taken over by the respondent Tata Steel Ltd. and the claim relates to the period from 01.04.1998 to December 2003 and the Tata Steel Ltd. had taken ISWPL (Indian Steel & Wire Product Ltd.) in December 2003. The written statement of the parties has been placed on record and this Court finds that the entitlement of the petitioners was seriously disputed by the respondents before the learned Labour Court. This Court finds that the learned Labour Court has rightly considered the case of the respective parties and has also recorded in paragraph 21 about the various disputes which arise for consideration. Paragraph 21 of the order is quoted as under:-

“ In these cases following are the disputed fact which required detail discussion and evidence.....

Factory was wrongly closed by the management or factory was closed due to non-supply of electricity by the Tata Company? These workmen used to perform their duties during the relevant period or not? The closure of company during relevant period was reasonable or wrong? The Hospital of the company was functional or not during relevant period? These workmen are entitled to get their pay for the period in question on the legal principle of 'No work No pay' is also a legal issue. Whether temporary closure of the company come under the purview of lock out or not required adjudication? Unless such question of legality of temporary closure amounting to lock out is duly adjudicated, it should not exercise power and jurisdiction U/s 33 - C(2) I.D. Act. Whether temporary closure was illegal? Entitlement of workmen to get full wages for the period in question is also a legal dispute which requires detail finding on this issue. These above legal disputes are beyond the legal competence of this court exercising jurisdiction U/s 33-C(2) of I.D. Act. These are legal issues which cannot be decided U/s 33-C(2) I.D. Act.”

8. The learned Court after recording the aforesaid points has clearly held in para 22 that the disputes mentioned in para 21 requires proper adjudication by taking evidence of both the parties and therefore the petition under 33-C (2) of the Industrial Disputes Act, 1947 was not maintainable. Essentially the proceeding under section 33-C (2) is in the nature of execution of existing or pre-adjudicated rights. The findings of the learned Court as recorded in paragraph 22 of the impugned order is quoted as under: -

“22. The disputed issues mentioned in forgoing paras which require proper adjudication by taking evidences on behalf of the parties on these disputed facts, which are not permissible under the ambit and scope of section 33-C(2) of the Act, 1947. It is a well settled proposition of law that proceeding under sec. 33-C(2) of the I.D. Act is nature of execution of existing or pre-adjudicated rights. Applicants have not brought any award or settlement on record which are most essential for filing the petition under sec 33-C(2) of the I.D. Act.

Therefore, after going through the documentary as well as oral evidence and on the basis of discussions made above, coupled with rule propounded by the Hon'ble supreme court and the Hon'ble High courts mentioned above I come to the conclusion and hold that applicants have completely failed to establish the fact that these applications are maintainable under section 33-C(2) of the I.D. Act, 1947. It is further hold that the claim/relief as asked by the applicants do not come under the purview of provisions under sec. 33-C(2) of I.D Act. Accordingly all the applications of the applicants are not maintainable. Hence, both issues are decided against the applicants.

In the light of the judgment passed by the Hon'ble Jharkhand High Court in W.P. (L) No. 1092 of 2014 the applicants may file a different petition under the I.D. Act.

As a result, All these applications filed by the applicants are hereby dismissed but without cost.”

9. After going through the impugned order this Court is of the considered view that several disputed questions were involved in the claim of the petitioners which required adjudication and the claim was not a claim arising out of existing or pre-adjudicated rights and the learned Court has rightly refused to grant relief in a petition under section 33-C (2) of the Industrial Disputes Act. The learned Court has passed a well- reasoned order which does not call for any interference under Article 226 of the Constitution of India. Accordingly, this petition is dismissed.

10. Pending I.A., if any, is closed.

(Anubha Rawat Choudhary, J.)