

ITEM NO.23                      Court 4 (Video Conferencing)                      SECTION X

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 707/2017

ANIL KUMAR & ORS.

Petitioner(s)

VERSUS

THE STATE OF JHARKHAND STATE OF JHARKHAND  
THROUGH CHIEF SECRETARY & ORS.

Respondent(s)

WITH

W.P. (C) No. 652/2019 (X)

W.P. (C) No. 72/2018 (X)

W.P. (C) No. 535/2021 (X)  
(FOR ADMISSION)

Date : 09-07-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s)

Mr. Rakesh Kumar Singh, Adv.  
Mr. Bipin Bihari Singh, Adv.  
Mr. Rajan Kumar Singh, Adv.  
Mr. Somanatha Padhan, Adv.  
Mr. Ashok Anand, AOR

Mr. Abhinav Mukerji, AOR  
Ms. Bihu Sharma, Adv.  
Ms. Pratishtha Vij, Adv.  
Mr. Akshay Srivastav, Adv.

Mr. Rajesh Srivastava, AOR

For Respondent(s)

Mr. Tapesk Kumar Singh, AOR  
Mr. Aditya Pratap Singh, Adv.  
Ms. Bhaswati Singh, Adv.

Mr. Abhinav Mukerji, AOR  
Ms. Bihu Sharma, Adv.  
Ms. Pratishtha Vij, Adv.  
Mr. Akshay Srivastav, Adv.

Mr. Barun Kumar Sinha, Ld. AAG

Mr. Anando Mukherjee, AOR  
Mr. Shwetank Singh, Adv.

Mrs. Niranjana Singh, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Writ Petition(s) (Civil) No(s). 707/2017

Heard counsel for the parties.

The relief claimed in this writ petition filed under Article 32 of the Constitution of India is to direct the respondents to pay the salary of the petitioners from 1.1.1995 till the date of their absorption in services in JHALCO in accordance with the order passed by this Court dated 22.11.2013 in Civil Appeal No. 10515 of 2013.

Upon perusal of the said judgment, it is amply clear that while giving final relief, the Court had made distinction between the relief given to the unabsorbed employees and the absorbed employees.

As regards the absorbed employees, to which category the petitioners belong, the relief was limited to the payment of salary from 29.12.2001 till 13.09.2004. On the other hand, the relief given to the unabsorbed employees was to pay their salary from 1.1.1995 till 29.12.2001. In that view of the matter, the petitioners

being absorbed employees cannot now claim parity with the relief granted to the unabsorbed employees.

Assuming that some prejudice is caused to the petitioners, that cannot be now gone into in a fresh writ petition. For, such a grievance would suffer from the vice of *res judicata*.

Realizing this position, learned counsel for the petitioners submitted that at least the relief given to the absorbed employees, in which category the petitioners fall, to pay their salary from 29.12.2001 to 13.09.2004 ought to be complied with.

Learned counsel for the respondents-State, however, has invited our attention to the order passed by this Court on 27.01.2016 in Contempt Petition (C) No. 484 of 2014 and would urge that this relief claimed by the petitioners has also been answered in terms of the said order.

We find merits in the stand taken by the respondents.

Hence, this writ petition is dismissed being ill-advised. We refrain from imposing costs for filing such frivolous litigation.

Pending applications, if any, stand disposed of.

W.P.(C) No. 652 of 2019

The relief claimed in this writ petition is to direct the respondents to absorb the petitioners in service in JHALCO from 29.09.2001. This relief cannot be countenanced in view of the decision in Civil Appeal No. 10515 of 2013 decided on 22.11.2013.

To overcome this position, learned counsel for the petitioners submits that the petitioners were not party to the said civil appeal.

We find no merits in this submission. Inasmuch as, the decision of this Court governs all the unabsorbed employees working in JHALCO at the relevant time, and not limited to the parties in appeal.

The petitioners cannot be allowed to re-agitate the same issue. In other words, the relief claimed in the present petition is barred by principles of *res judicata*.

Hence, the writ petition is dismissed.

Pending applications, if any, stand disposed of.

W.P.(C) No. 72 of 2018

The relief claimed in this writ petition is to direct the respondents to pay salary to the petitioners from 01.01.1995 to 13.09.2004 in accordance with the orders

passed by this Court in Civil Appeal No. 10515 of 2013.

For the reasons recorded while disposing of Writ Petition(C) No. 707 of 2017, even this writ petition must suffer the same fate.

Learned counsel for the petitioners, however, submits that the petitioners are seeking relief against BHALCO and not JHALCO. That makes no difference as the entire issue had been considered in the earlier proceedings. Assuming that it has not been decided, the same cannot be entertained in successive proceedings/ petitions.

We reject this writ petition, we refrain from imposing costs for such frivolous litigation.

Pending applications, if any, stand disposed of.

W.P.(C) No. 535 of 2021

Learned counsel for the petitioners submits that in light of the orders passed in other cases, the petitioners will not press prayer clause (a) of this writ petition.

Accordingly, the writ petition stands dismissed as regards prayer clause (a), as not pressed.

Reverting to prayer clause (b), the grievance is essentially about non-disbursal of statutory dues such as

CPF, gratuity, leave encashment, LIC group insurance etc. The petitioners ought to pursue their remedy in that regard, before the statutory authority. For, grievance regarding service conditions and retirement service benefits cannot be straightway brought to this Court by way of writ petition under Article 32 of the Constitution of India - merely because this Court had decided the earlier proceedings in Civil Appeal No. 10515 of 2013 vide order dated 22.11.2013.

Suffice it to observe that the grievance now made is arising on account of subsequent events, for which, the petitioners must pursue their remedy before the statutory authority in the first place.

If the order passed by the statutory authority is adverse to the petitioners, it will be open to them to take recourse to further remedy, as may be permissible in law.

With these observations, the writ petition is disposed of.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)  
COURT MASTER (SH)

(VIDYA NEGI)  
COURT MASTER (NSH)