

Id. NO. 02/2016

1st March, 2023

Present : Sh. Vinay Kumar, proxy A/R for the claimant with the
Gen Secy.
Sh. Vijender Singh.
Shri M.C Kocchar, Ld.A/R for the management.

The record has been put up today pursuant to an application filed by the Respondent BSNL for early hearing of the matter for the grounds taken in the application.

AR for both the parties are present. Argument heard on the application filed by the Respondent BSNL praying grant of interim stay on the execution of the award dt 14/06/2017 passed in this Industrial Dispute.

The facts leading to filing of the present application in short is that ,the claimant workman had raised an Industrial Dispute alleging illegal termination and unfair labour practice meted out by the management against him. The Tribunal by award dated 14/06/2017, held the said action of the management to be illegal and directed the management to re instate the workman in service within two months from the date of the publication of the award. The workman thereafter took steps for execution of the award dated 14/06/2017.

At this juncture, the Respondent BSNL came up with an application for setting aside the award dt 14/06/2017 along with a separate application for an order of interim stay on the execution of the Award . Copy the application being served, the claimant workman filed reply to the same.

During hearing, the learned AR for the Respondent submitted that the ex parte award dt 14/06/2017 was obtained by the workman by playing fraud on the Tribunal and the same being challenged by the Respondent, the Hon'ble High Court of Allahabad have set

aside the said Award by order dt 15/11/2021 passed in Civil Misc Writ Petition No@46367/2017. A photo copy of the certified copy of the said order has been annexed to the application. The further submission of the AR for the Respondent applicant is that the Recovery notice has been issued by the executing Authority and attempts are being taken for putting lock on the premises of the Respondent as a mode of execution of the Award. If the action proposed by the executing authority would not be prevented by an interim order of stay pending disposal of the application for setting aside the ex parte award, serious prejudice shall be caused. Moreover, BSNL is a state owned Corporation and there is least chance of fleeing away of the reach of law. If the premises of the Respondent would be locked by the Executing Authority, the internet service provided by BSNL to different departments and Govt. offices would be seriously impacted. Hence, he insisted for grant of interim stay on the execution of the Award.

The learned AR for the claimant counter argued that the application has been filed after an unreasonable period of time after the publication of the Award. Moreover, the Tribunal has no power to deal with the matter since the applicant Respondent has admitted that the matter is pending before the Hon'ble High court of Allahabad.

On perusal of the application filed by the applicant Respondent, it clearly appears that the ex parte award dated 14/06/2017 has already been set aside by the Hon'ble High Court. Thus by necessary implication the award is not executable. But no authenticated copy of the order has been placed on record. In such a situation, the Tribunal can not pass any interim order for stay in the execution proceeding. The Respondent can approach the executing authority of the award, with the order of the Hon'ble High court, for any relief. The petition for interim stay is accordingly rejected.

Call the matter on 24.05.2023 for hearing of the other application filed by the Respondent containing the prayer for setting aside the Ex parte Award, if the same

survives after the order of the Hon'ble High court of
Allahabad passed by order dt 15/11/2021, in Civil Misc
Writ Petition No@46367/2017.

Presiding Officer

CGIT-II