

**Jodhpur Vidhyut Vitran Nigam Limited and another v Commissioner
(Disability) and another**

Rajasthan High Court

JODHPUR BENCH

16 January 2015

S. B. Civil W.P. No. 705/2012, S. B. Civil W.P. No. 1062/2012

The Order of the Court was as follows:

1. Heard learned counsel for the parties.
2. Facts in brief are that Jhunjhar Singh was working as a daily wager in the company when he met with an electrical accident on 13.12.2005 and resultantly, one of his hands had to be amputated as a life saving measure. He filed an application before the Commissioner (Disability) under the provisions of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, referred to herein after as 'Act of 1995') against Jodhpur Vidhyut Vitran Nigam Ltd. (for short, referred to herein after as 'the Company'). The company did not appear despite service of notice whereupon the application preferred by the employee Jhunjhar Singh was allowed by the Commissioner by an ex-parte order dated 18.8.2010/6.9.2010.

The Commissioner whilst accepting the application, directed the company to pay the expenses of treatment and in addition thereto, a sum of Rs.3 lakhs was awarded as compensation for mental agony suffered by the employee and also to reinstate him

with all consequential benefits. The Company instead of complying with the said order, filed an application under Order 9 Rule 13 read with S. 151 C.P.C with a prayer to recall the ex-parte order. The Commissioner, after hearing the parties in detail, rejected the recalling application by order Annex.2 dated 26.9.2011.

3. The Company has preferred S.B. Civil Writ Petition No.705/2012 assailing the aforesaid orders Annex.1 dated 18.8.2010/6.9.2010 and Annex.2 dated 26.9.2011 passed by the Commissioner (Disability).

4. The employee Jhunjhar Singh has approached this Court by way of writ petition no.1062/2012 seeking a direction for the compliance of the orders Annex.1 dated 18.8.2010/6.9.2010 and Annex.2 dated 26.9.2011.

5. Mr.Manoj Bhandari, learned counsel for the Company fairly concedes that the controversy involved in these writ petitions stands squarely covered by the order of the Division Bench of this Court in D.B. Civil Special Appeal (Writ) No.640/2014 [The Secretary (Admn.) JVVNL, Jodhpur & Ors. Vs. Ashok Kumar & Anr.] dated 20.8.2014 wherein a similar relief granted by the Disability Commissioner to a contract labourer was upheld by this Court.

He further concedes that so far as employee Jhunjhar Singh is concerned, his case stands on a better pedestal because he was, as a matter of fact, a daily wager in the company itself. He,

therefore, submits that the writ petition preferred by the company may be dismissed in the light of the aforesaid judgment in the case of Ashok Kumar.

6. Dr.Nupur Bhati, learned counsel appearing for the employee Jhunjhar Singh submits that the Company be directed to comply with the order of the Commissioner as the employee till date has not been paid any compensation and has also not been reinstated so far.

7. Having regard to the facts and circumstances and keeping in view the judgment of the Division Bench in the case of Ashok Kumar (supra), this Court is of the opinion that the controversy involved in these writ petitions no longer survives and appropriate direction has to be issued to the respondents for complying with the Commissioner's order.

8. Consequently, S.B. Civil Writ Petition No.705/2012 preferred by Jodhpur Vidhyut Vitran Nigam Ltd. deserves to be and is hereby dismissed. S.B. Civil Writ Petition No.1062/2012 preferred by the employee Jhunjhar Singh deserves to be and is hereby allowed. It is hereby ordered that the company shall forthwith comply with the order Annex.1 dated 18.8.2010/6.9.2010 passed by the Commissioner (Disability) and shall reinstate the employee Jhunjhar Singh in service forthwith with all consequential benefits and shall make payment of treatment expenses as well as compensation to him within a period of two months from the date of this order.

Since the aforesaid payment to the employee has been delayed unreasonably and unjustly for a period in excess of 4 years, the same shall carry interest at the rate of 9% per annum from the date of accrual till date of payment. If the order is not complied with within a period of two months, the interest shall stand enhanced to 18% per annum.

9. No order as to costs.

Petition disposed of