

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13219 of 2005

The Sr. Divisional Manager, Tata Iron & Steel Co. Ltd. ***Petitioner***

M/s. D.P. Nanda, Senior Advocate and associates

-versus-

Sri Sankarsan Sahoo and another ***Opposite Parties***

Ms. Sradha Das, Advocate for O.P. No.1

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK**

Order No.

**ORDER
07.03.2022**

25. 1. The challenge in the present petition is to an award dated 30th July 2005 passed by the Labour Court, Bhubaneswar in Industrial Dispute Case No.120 of 1994.

2. The dispute referred to the Labour Court for adjudication was as under:

“Whether the action of the management of the Tata Iron and Steel Company Limited, Paradeep in terminating the services of Sri Sankarsan Sahoo, Technical Helper with effect from 4.8.90 is legal and/or justified ? If not what relief Sri Sahoo is entitled to?”

3. The case of the Workman was that he was engaged as Technical Helper under the Management with effect from 7th May 1985 under the direct control of the Divisional Manager of the Management at Paradeep Port Branch on a daily wage basis at the rate of Rs.25/- per day and rendered continuous

uninterrupted service from then on till 4th August, 1990. Questioning his illegal termination with effect from 4th August 1990 as being in violation of Section 25 F of the Industrial Disputes Act, 1947 (ID Act), he raised the above industrial dispute.

4. In order to substantiate his claim, the Workman examined himself as WW-1 and two other witnesses and relied on xerox copies of the documents including temporary pass for civil workers, call letters and so on. On the side of the Management, two witnesses were examined.

5. The Labour Court has in the impugned order thoroughly discussed the evidence. It has come to the conclusion that nothing could be elicited on the cross-examination of the Workman's witnesses to disprove their evidence regarding the workman having rendered continuous service. The evidence rendered by the Management witnesses was also discussed in great detail and it was concluded that the Workman had been able to establish his case of having rendered continuous service of 240 days in the preceding twelve months prior to his termination. The inevitable conclusion therefore was of non-compliance of Section 25 F of the ID Act. The operative portion of the impugned award was grant of the relief of reinstatement in service with lump sum compensation of Rs.3000/- towards back wages.

6. While directing notice to be issued in the present petition on 2nd January 2006, this Court stayed the operation of the impugned award subject to compliance with Section 17 B of the Act.

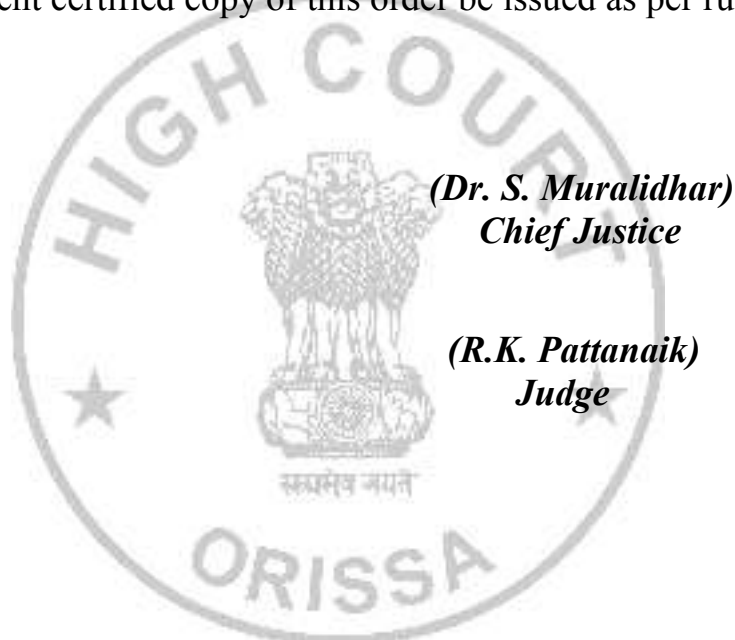
7. According to learned counsel for the Petitioner, the above interim order was complied with and now Opposite Party No.1 has already attained the age of superannuation making it impractical for the Management to reinstate him in service. Reliance is placed on a judgment in ***Range Forest Officer v. S.T. Hadimani AIR 2002 SC 1147*** to urge that the burden of showing that he had worked for more than 240 days continuously during the preceding twelve months was on the Workman and that in the present case the Workman had not discharged that burden. Reliance is also placed on the decision in ***Krishna Bhagya Jala Nigam Limited v. Mohammed Rafi (2009) 11 SCC 522***, which is to the same effect.

8. While the ratio of the aforementioned two decisions is unexceptionable, as far as the present case is concerned, the Court is satisfied that the Workman discharged the burden placed on him by not only examining himself, but two other witnesses and also placing on record the relevant documents and proving them. These witnesses were subjected to cross examination, but nothing could be elicited to contradict their version that the Workman had indeed rendered 240 continuous days of service in the preceding twelve months prior to his termination. This being a matter purely of appreciation of evidence and with the learned

counsel for the Petitioner being unable to point out anything perverse in the impugned award, the Court is not inclined to interfere.

9. Therefore, notwithstanding that one portion of the award regarding reinstatement cannot be practically implemented at this stage, the Court sees no reason to interfere. The writ petition is dismissed.

10. An urgent certified copy of this order be issued as per rules.



S.K. Guin