

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.19329 of 2010 and W.P.(C) No.18011 of 2011

Ratnakar Baral ***Petitioner***
(In W.P. (C) No.19329 of 2010)

Mr. R. Acharya, Advocate

-versus-

Managing Director, Orissa State Co-operative Marketing Federation Limited, Bhubaneswar and another ***Opposite Parties***

Mr. S. K. Pattnaik, Senior Advocate along with
Mr. U. C. Mohanty, Advocate

Orissa State Co-operative Marketing Federation Limited, Bhubaneswar and another ***Petitioners***
(In W.P. (C) No.18011 of 2011)

Mr. S. K. Pattnaik, Senior Advocate along with
Mr. U. C. Mohanty, Advocate

-versus-

Ratnakar Baral ***Opposite Party***
Mr. R. Acharya, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK

ORDER
28.03.2022

Order No.

11. 1. There are two writ petitions filed against the same Award of the dated 28th January, 2010 passed by the Industrial Tribunal, Bhubaneswar (Tribunal) in Industrial Dispute Case No.77 of 2008. One is by the Workman and the other one by the Management.
2. By the said Award, the Tribunal has held that the termination of the services of the Workman by the Orissa State Co-operative

Marketing Federation Ltd., Bhubaneswar (Management) was not in compliance with the requirement of Section 25-F of the Industrial Disputes Act, 1947 (ID Act) since the Workman had rendered continuous service of more than 240 days, year preceding the termination. Accordingly, the Management has directed to reinstate the Workman and also to pay him a lump sum compensation of Rs.20,000/-.

3. Aggrieved by the compensation amount and praying for its enhancement, the Workman has filed the petition (W.P.(C) No.19329 of 2010). As far as the Management is concerned, it is aggrieved by the fact that the Workman has been asked to be reinstated.

4. This Court has heard the submissions of Mr. R. Acharya, learned counsel for the Workman and Mr. S. K. Pattnaik, learned Senior Counsel appearing for the Management.

5. Mr. Acharya points out that in a similar circumstance, this Court had by an order dated 24th February, 2022 in W.P.(C) No.1131 of 2007 (***Orissa State Cooperative Marketing Federation Ltd., Bhubaneswar and another v. Lokanath Pradhan and another***) upheld a similar Award passed by the Tribunal.

6. On the other hand, Mr. Pattnaik, learned Senior Counsel for the Management submits that admittedly the Petitioner was working in a scheme with the Management, which was for a limited duration. According to him, once the scheme came to an end, the employment of the Workman could not have been continued. It is in those circumstances that a letter was issued to the Workman on

26th April, 1993 terminating his services with effect from 30th April, 1993. It is submitted on merits that in the judgments of the Supreme Court in *S.M. Nilajkar v. Telecom District Manager, Karnataka, (2003) 4 SCC 27*, *Haryana State Electronics Development Corporation Ltd. v. Mamni, AIR 2006 SC 2427*, *Jagbir Singh v. Haryana State Agriculture Marketing Board, (2009) 15 SCC 327* and *Assistant Engineer, Rajasthan Development Corporation v. Gitam Singh, (2013) 5 SCC 136.*, compensation in lieu of reinstatement has been accepted as a norm notwithstanding the fact that the requirements of Section 25-F of the ID Act may not have been complied with.

7. Having considered the submissions made by learned counsel for the parties, the Court is of the view that the impugned Award does not call for any interference. Even assuming that the Petitioner had been employed under the scheme that had come to an end, the fact remains that even for a period of two years after the conclusion of the scheme in April, 1991, the Workman continued to be engaged for another two years. Therefore, his employment was clearly not co-terminus with the scheme as is sought to be contended by the Management in this Court.

8. As regards the prayer that there should be compensation in lieu of reinstatement, considering that the Petitioner is already 62 years old, reinstatement is not even possible and correspondingly to order compensation at this stage does not seem practicable. During the pendency of the present petition the Workman could not get back

into service and was paid wages under Section 17-B of the ID Act and that too after intervention by this Court.

9. The Court therefore does not consider it appropriate to interfere with the impugned Award of the Tribunal. Both the writ petitions are accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge



M. Panda