

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 27629 of 2011

***The Management of M/s.Bargarh
Regional Co-operative Marketing
Society Ltd.*** ***Petitioner***

Mr. S.K. Nanda, Advocate

-versus-

***Presiding Officer, Labour Court,
Sambalpur and others*** ***Opposite Parties***

Mr. D.K. Mohanty, AGA
Mr. Bhabani Sankar Das, Advocate

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

ORDER

18.05.2022

Order No.

08. 1. The Management has filed this writ petition questioning an award dated 10th June 2011, passed by the Labour Court, Sambalpur in I.D. Case No.10 of 2010. By the said award, the Labour Court held that the dismissal of the Opposite Party No.2-Workman from service was not legal or justified. He was directed to be reinstated in service with back wages.
2. The background facts, according to the Petitioner, are that the Workman was appointed as a Pump Attendant in the fuel filling station of the Management on 18th July, 1976. He was then promoted to the post of Salesman by an order dated 1st October 1981 and he joined that post on 3rd October, 1981. Alleging that he had committed negligence in duty, was unauthorisedly absent from duty, disobeyed the orders of the authority, misappropriated the

funds of the Management and for insubordination, the Workman was suspended on 22nd December, 2006. Thereafter, a charge sheet was issued on 28th April 2007, requiring the Workman to file a reply within fifteen days. With the reply dated 9th May, 2007 of the Workman not to be found satisfactory, a domestic enquiry was held. The enquiry report went against the Workman and the charges of negligence in duty, unauthorized absence and disobedience to the orders were held to be proved. The allegation of misappropriation of funds and dishonesty were held not proved.

3. A copy of the report was supplied to the Workman and a further show cause was issued to him. After considering his reply, the Board of the Management dismissed the Opposite Party No.2 from service by its letter dated 30th September, 2008. This gave rise to the Industrial dispute which was referred to for adjudication to the Labour Court. The following issues were framed by the Labour Court for adjudication:

“(i) “Whether the domestic enquiry conducted by the management is fair and proper?”

(ii) Whether the action of the management of M/S Bargarh Regional Co-operative Marketing society Ltd, Bargarh in dismissing Sri Sishupal Sahoo, Salesman from service vides their letter No.288 dtd 30.09.2008 is illegal and/or justified?

(iii) If not, what relief the workman is entitled to?”

4. As far as issue (i) was concerned, the Labour Court concluded that the enquiry conducted by the Management was proper and fair. Thereafter, both the parties filed their documents and examined

their witnesses. The Workman examined himself as WW-1. On behalf of the Management, the Secretary I/C was examined as MW-1. The Labour Court then found that there was no unauthorized absence by the Workman and the explanation that he had submitted a letter dated 28th July, 2006 to the Management offering an explanation was acceptable. Even as regards insubordination, it was held that the charge was not proved by the Management. It is in the above circumstance that the relief of reinstatement with back wages was granted by the Labour Court.

5. This Court has heard the submissions of Mr. S.K. Nanda, learned counsel for the Management and Mr. Bhabani Sankar Das, learned counsel for Opposite Party No.2.

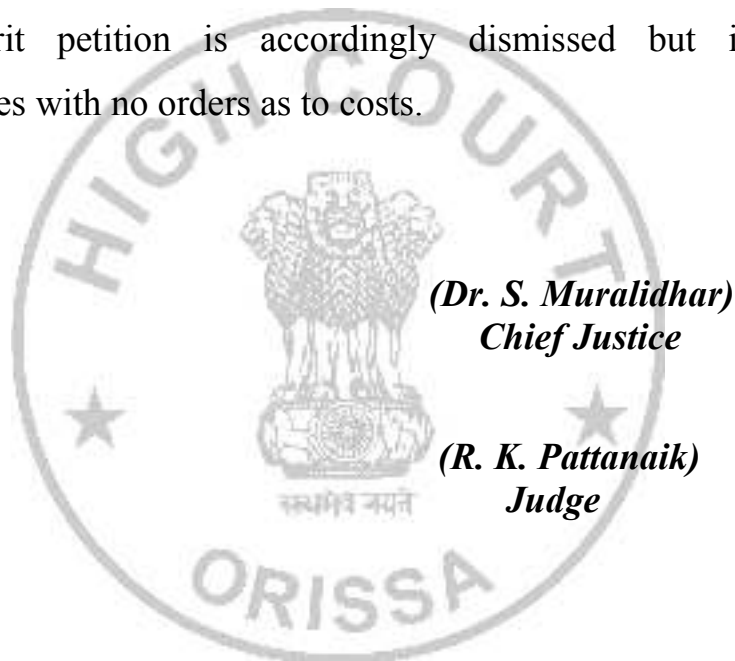
6. It was submitted on behalf of the Management that the Labour Court erred in believing the version of the Workman and disbelieving the Enquiry Officer who had on a very thorough examination of the entire evidence come to certain conclusions against the Workman and in favour of the Management.

7. The Court finds that the Labour Court has meticulously examined the entire evidence on record and made a proper analysis before coming to the conclusion that the Management had failed to prove its case regarding unauthorized absence of the Workman or his disobeying the orders of the Management. While the enquiry may have been held in a fair manner, as concluded by the Labour Court, on merits there was no evidence produced by the Management to bring home the charges against the Workman

regarding unauthorized absence, disobedience of orders or negligence in duty. These are purely factual matters and the evidence on record substantiated the case of the Workman that the termination of his services was illegal.

8. Consequently, the Court in exercising its writ jurisdiction is not inclined to interfere with the well reasoned award of the Labour Court.

9. The writ petition is accordingly dismissed but in the circumstances with no orders as to costs.



(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

S. Behera