

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17017 of 2007

Rajesh Kumar Kar

....

Petitioner

Ms. Sarita Moharana, Advocate

-versus-

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

Mr. P. K. Muduli, Additional Government Advocate and
Ms. S. Pattanaik, Advocate for Opposite Party No.2

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

**ORDER
09.05.2022**

Order No.

15. 1. The challenge in the present petition by the Workman is to an award dated 26th July, 2006 passed by the Labour Court, Sambalpur in ID Case No.59 of 2002.
2. The following question was referred for adjudication to the Labour Court:

“Whether the termination of services of Mr. Rajesh Kumar Kar, Temporary Junior Operator by the management of Indian Aluminium Company Ltd., Hirakud, with effect from 01.12.99 is legal and/or justified? If not what relief Sri Kar is entitled to?”

3. The case of the Workman was that he joined as Junior Instrumentation Mechanic under the Management on 20th October, 1997 and the Management kept extending his probation period

from time to time. On 1st December 1999, he was refused entry into the factory premises and this tantamounted to refusal of employment. Accordingly, an industrial dispute was raised.

4. In considering the issue whether termination of services of Workman was legal and justified, the first question taken up for consideration by the Labour Court was whether the letter of appointment was Exhibit D issued on 13th October, 1997 as relied upon by the Petitioner or Exhibit E, which was issued subsequently by the Management.

5. The Labour Court, on analyzing both the documents, came to the conclusion that exhibit E was in fact the appointment order as it contained details regarding scale of pay and stated that the Petitioner was being selected on probation in the post of Junior Operator. It was noted that the Petitioner joined duties as such on 20th October, 1997.

6. It was sought to be contended by Workman that Exhibit E was handed over to him in the late hours of the evening and that he had somehow joined the post without knowing the terms of employment, the scale of pay, etc. This was disbelieved by the Labour Court.

7. The factual finding further of the Labour Court was that due to the Management not finding the work of the Petitioner to be satisfactory, his probation period was kept extended from time to time. The fact of the matter was that the Workman was never made a permanent employee. Another document relied upon by the

Petitioner was Exhibit F, which showed that the temporary employment was extended for three months from 20th April, 1998 on the same terms and conditions as Exhibit E. The further exhibits produced by the Management only showed that his temporary employment was continued from time to time. It is in the above circumstances, the Labour Court came to the conclusion that since the Petitioner was only on probation throughout and was never a confirmed employee, he came within the exception of Section 2 (oo)(bb) of the Industrial Disputes Act, 1947.

8. A detailed analysis has been undertaken by the Labour Court of all the documents on record as well as the evidence laid before it. Its findings were purely factual and have not been able to be shown to be perverse or contrary to the evidence on record. Given the limited scope of interference of this Court under Article 227 of the Constitution, the Court is not inclined to interfere with the impugned award of the Labour Court holding against the Workman and answering the reference in favour of the Management.

9. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda