

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5961 of 2002

Orissa Synthetic Shramik Sangha ***Petitioner***
Mr. S. Das, Advocate

-versus-

Presiding Officer, Industrial ***Opp. Parties***
Tribunal, Orissa and others

Mr. B.P. Tripathy-2, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
16.08.2022

Order No.

21. 1. On 11th December, 2019, the following order was passed:

“The petitioner, Management of Orissa Synthetic Shramik Sangha, Mahaveer Bazar, Dhenkanal, has challenged the impugned award dated 3rd August 2002 passed by the learned Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar in I.D. Case No.2 of 1997. The reference was as follows:

“Whether the service of the Labour Supply Contract Labourers (as per the enclosed list) deployed through different contract agencies in Orissa Synthetics, Laxminagar, Dhenkanal needs to be regularized for giving status of permanent employee by the management of Orissa Synthetics or not? If so what would be the principle? And if not, what relief they are entitled to?”

The learned Tribunal has answered the above reference against the second party-workman.

Referring to the observation made by the learned Tribunal in paragraph No.14 of the impugned judgment, learned counsel appearing for opposite party no.3 submitted that the opposite party no.3 has already taken over the opposite party no.2-Unit. The opposite party no.3 was not impleaded as a party before the learned Tribunal. He further submitted that the opposite party no.3-Management has already obtained permission and in pursuance of such permission, factory licence has already been surrendered and the Unit has become inoperative. It has been closed since 2017. An affidavit to that effect be filed by the next date.

Let the learned counsel for the petitioner obtain instruction as to what relief they can get in the above scenario.

List this matter on 07.01.2020.”

2. Thereafter an affidavit has been filed by Opposite Party No.3 and on 4th February, 2020, the following order was passed :

“As directed by this Court vide order dated 11.12.2019, opposite party no.3 files affidavit along with three Annexures bearing Annexure-B/3 to D/3, copy of which has been served upon the learned counsel for the petitioner.

Learned counsel for the petitioner wants to file objection to the affidavit.

Learned counsel for the petitioner shall also comply the direction given to him on 11.12.2019 by the next date.

List this matter on 2.3.2020 in the after notice category in the weekly list.”

3. Till date no such objection has been filed by the Petitioner of the above Opposite Party No.3.

4. It is plain from the affidavit of Opposite Party No.3 that the unit in question where the Petitioner workmen were employed is no longer in operation. It is unable to be shown by the learned counsel for the Petitioner that in terms of the agreement under which Opposite Party No.3 took over the unit, there was any obligation on it to discharge the liabilities of the erstwhile unit vis-à-vis the Petitioner workmen. Accordingly, it is not possible for the Court to issue any mandamus to Opposite Party No.3 in terms of the claims preferred by the Petitioner before the Industrial Tribunal, Bhubaneswar in I.D. Case No.2 of 1997, which any event was rejected. Consequently, the Court is not inclined to interfere with the impugned award. The petition is dismissed as such.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge