

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C). No.25818 of 2011

United Mines Mazdoor Union & Others ***Petitioners***

Mr. S.K.Mishra, Advocate

-versus-

Union of India, New Delhi & Others ***Opp. Parties***

Mr. M.K.Pati, CGC for O.P. Nos. 1,2, & 7 and
Mr. D.P.Nanda, Sr. Advocate for O.P. Nos.3 to 6

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

Order No.

**ORDER
22.03.2022**

- 5.
1. The present matter has a very long history. The prayer is for quashing a letter dated 17th October, 1978 issued by the Steel Authority of India Ltd. terminating the services of 544 workmen.
 2. An industrial dispute that emanated from the said termination of service led to proceedings before the Conciliation Officer under the Industrial Disputes Act, 1947 ('ID Act'). On 27th February 1979 the Conciliation Officer-cum- Asst. Labour Commissioner (Central), Rourkela (Orissa) submitted a failure report.
 3. When the Petitioner's union sought reference to the dispute to the Central Government Tribunal (CGIT), the impugned letter

dated 13th July, 1979 of the Ministry of Labour, Government of India as under:

“In the continuation of this Ministry’s letter of even number dated the 2nd April, 1979, on the subject mentioned above, I am directed to say that it is not proposed to refer the dispute to adjudication as the action of the management in terminating the services of 208 Gorakhpur labour does not seem to be unjustified.”

4. The Petitioners challenged the above order by filing Writ Petition (Civil) No. 408 of 1992 in the Supreme Court of India under Article 32 of the Constitution of India. On 18th January, 1993 the following order was passed by the Supreme Court dismissing the said writ petition:

“The petition is dismissed as withdrawn with liberty to the Petitioner to move the High Court under Article 226/227 of the Constitution”

5. Pursuant thereto, the Petitioners approached the Allahabad High Court with Writ A No. 30794 of 1993. The said petition was taken up for 17 years later and an order dated 20th December, 2010 was passed dismissing the said petition as withdrawn with liberty to the Petitioners to approach the High Court having territorial jurisdiction over the matter. Following the above order, the present petition was filed in September, 2011 in this Court. Notice was issued to the Opposite Parties on 22nd December, 2011. The case does not appear to have been listed thereafter till date.

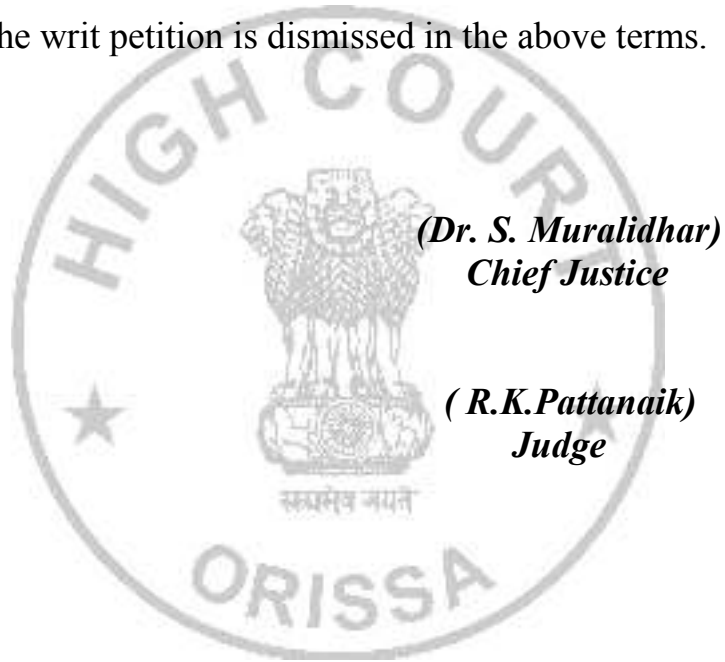
6. Although Shri Mishra, learned counsel for the Petitioners, submits that even at this stage a reference can be made of the disputes to the CGIT, he is unable to dispute the fact that none of the workmen whose services were terminated is any longer employable. It is entirely possible that each of them has attained the age of superannuation. Nevertheless, Mr. Mishra presses for compensation to them for wrongful termination of their services.

7. Mr. Nanda, learned Senior counsel appearing for the Rourkela Steel Plant (RSP) of the Steel Authority of India Ltd. (SAIL) points out that a preliminary issue that arises for consideration is whether the workmen whose services were terminated were directly employed by SAIL or were employees of a contractor engaged by SAIL? According to him SAIL would not be liable to pay any compensation for alleged wrongful termination of the services of the 544 workmen who were not directly employed by it.

8. Even, if the petitions were to be allowed and a reference made to the CGIT at this stage, it would relate to a dispute pending since 1979 i.e. more than 43 years ago. It would not be practically feasible to ascertain how many workmen are still around and are in a position to pursue litigation before the CGIT. It is likely, that many may no longer be interested since the relief of restatement cannot be granted to them. To expect evidence regarding the alleged wrongful termination of their services to be available and for witnesses to appear 43 years after the event is asking for the impossible. The entire exercise may turn out to be futile.

9. There has been delay at every stage of the matter. It is unfortunate that as many as 43 years has elapsed without reference being made of the dispute for adjudication. However, in view of practical difficulties referred to hereinbefore, the Court sees no purpose served in issuing directions at this stage to the Central Government to make the reference. The Court accordingly declines to issue the directions as prayed for.

10. The writ petition is dismissed in the above terms.



Tudu/kabita