

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 16734 of 2008

Management of Executive Engineer, ***Petitioner***
Baripada Electrical Division

Mr. R.N. Acharya, Advocate

-versus-

Industrial Tribunal and Another ***Opposite Parties***

Mr. S.N. Das, Addl. Standing Counsel (State)

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

ORDER
17.02.2022

Order No.

04. 1. The challenge in the present petition is to an Award dated 4th April, 2008 passed by the learned Industrial Tribunal, Bhubaneswar (Opposite Party No.1) (Tribunal) in I.D. Case No.9 of 2002. The reference made to the Tribunal was for adjudication of the following dispute:
- “Whether the termination of service of the NMR Workers by the Executive Engineer, Baripada, Electrical Division, Baripada in different dates as per the List (Annexure-B) is legal and or justified? If not, to what relief the workers are entitled?”
2. The impugned Award reveals that while four witnesses were examined on behalf of workman, the Management failed to lead any evidence to substantiate its case that the workman was not working under the Management but under a contractor.

3. The Tribunal has in the impugned Award noted that the four workmen witnesses were able to demonstrate that three of them work as NMRs and their services were terminated without notice. The fourth worked as a lineman supervising the work of the three NMRs. The workmen were further able to show that they had worked continuously for more than 40 days in a calendar year and that prior to their termination no notice was issued on them.

4. However, as far as the Management is concerned, despite contending that the workmen had worked under a contractor, no evidence was adduced to that effect. No suggestions were given to the workers' witnesses to that effect.

5. Learned counsel for the Petitioner could not persuade the Court that the Management had in fact led evidence before the Tribunal to substantiate its case. He sought to place reliance on documents placed before this Court for the first time. However, having missed the bus before the Tribunal the Court is not persuaded to permit the Management to do so at this stage.

6. As regards the relief granted, the Court notices that since the workmen witnesses did not state that they were not gainfully employed during the period when they were retrenched, the Tribunal held them not entitled to back wages. Even reinstatement was not granted despite holding that the termination of their service was illegal. The only relief granted by the Tribunal was to hold that "they are entitled for reemployment" if and when "vacancies arise in the concerned Department". Even this limited

relief has been stayed by this Court on 12th December, 2008 when notice was issued in the present petition. In effect therefore no substantial relief has been granted to the workmen despite succeeding before the Tribunal.

7. For all of the aforesaid reasons, the Court is not inclined to interfere with the impugned Award of the Tribunal. The writ petition is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/P.A.

