

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.2747 of 2014

Kartik Chandra Mangaraj

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Petitioner

Mr. S.S. Mohapatra, Adv.

-Versus-

M/s OFDC Ltd. & Another

.....

Opp. Parties

Mr. S.Mishra, Adv.

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

23.08.2022

Order No.

06.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard Mr. S.S. Mohapatra, learned counsel appearing for the petitioner and also Mr. S. Mishra, learned counsel appearing for the Opp. Parties.
3. By means of this writ petition, the judicial review of the award, dated 05.10.2013 delivered in I.D. Case No.47 of 2012, has been sought. We have perused the award dated 05.10.2013 delivered in I.D. Case No.47 of 2012 by the Presiding Officer, Industrial Tribunal, Bhubaneswar. By way of reference, the dispute relating to termination was transmitted to the said Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947. The reference was made to examine whether the Management of M/s. OFDC Ltd., the

Opposite Party No.1 herein was justified in terminating the service of the petitioner who was serving in the said Corporation as Peon. The petitioner has been terminated by the order dated w.e.f. 01.08.2001.

4. According to the petitioner (the workman), he was engaged as Watcher on 09.12.1988 and he had been serving the Opposite Party No.1 without any complaint. Mr. S.S. Mohapatra, learned counsel has asserted that when the workman raised the claim for regularization, the said termination had been ordered. Two of his juniors working in the similar capacity, were regularized, in the scale of pay of Rs.750-940/-.

5. After receiving the statements from both the parties, the Industrial Tribunal framed the principal issue which reads as follows:

“Whether the action of the Management of M/s. O.F.D.C. Ltd, Bhubaneswar in terminating the services of Sri Kartik Ch. Mangaraj, Peon w.e.f. 01.08.2001 is legal and/or justified? If not, what relief Sri Mangaraj is entitled to?”

6. While discussing the said issue, it has been observed that the Opposite Party No.1 is an Industrial Establishment and hence, the provision of Section 25 N of the Industrial Disputes Act, 1947 applies.

7. The core of the provisions of Section 25 N of the Industrial Disputes Act, 1947 postulates that if the industrial worker works for not less than one year (240 days) can be retrenched by the employer, unless the workman has been given 3 months’ notice, indicating the retrenchment or he has been paid due wages in advance. Only thereafter, the retrenchment may be effected.

8. It has been observed by the Industrial Tribunal that the engagement of the petitioner was made in an irregular manner. On

survey, industrial establishment found surplus Workmen. That was the sole reason of retrenchment of the petitioner. Moreover, the petitioner had approached the referring authority after 13 years of his retrenchment and as such, no interference was made in respect of retrenchment. However, compensation of Rs.20,000/- has been assessed to be paid to the petitioner herein, in view of the decision, **Assistant Engineer, Rajasthan State Agricultural Marketing Board Vrs. Mohan Lal** reported in **2013(139)FLR 125**. So far retrenchment is concerned, Mr. Mohapatra, learned counsel did not challenge the finding but he has contended that the compensation as assessed is too meager, it requires to be interfered with.

9. Mr. Mishra, learned counsel appearing for the Corporation- Opposite Party has submitted that this petition for judicial review is untenable. Neither in interpreting the law or in analysis of the factual matrix, the award suffers from any infirmity. That apart, the impugned award is well-reasoned.

10. We have considered the factual background and the decision of the Apex Court in *Mohan Lal* (supra) where it has been held by the Apex Court that when the delay is inordinate in raising the plea against the action of retrenchment, the relief can be appropriately moulded.

11. According to us, the Industrial Tribunal has correctly refused to interfere with the order of retrenchment. But while awarding the compensation, the impact of retrenchment has not been appropriately assessed. We are of the view that the sum of compensation is truly meager.

12. Hence, we enhance the compensation to the sum of Rs.75,000/-, to be paid by the Opposite Party No.1 within a period of

2 months from today, else that sum shall carry interest at the rate of 7% per annum from the date of the award, as challenged by the workman in this writ petition.

13. In terms of the above, this petition stands partly allowed.

14. There will be no order as to costs.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge

Rati Ranjan

