

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3604 of 2007

The Management of WESCO, Petitioner
Bolangir Electrical Division

Mr.P.K.Mohanty, Advocate

-versus-

Sri Kunja Bihari Mallick Opp. Parties

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

Order No.

ORDER
09.03.2022

16. 1. There appears to be an unexplained inordinate delay at every stage of proceedings till the passing of the impugned Award dated 6th February, 2007 by the Labour Court, Sambalpur in I.D. Case No. 38 of 2002.
2. The dispute referred to the Labour Court for adjudication read as under:
- “Whether the refusal of employment of Sri Kunja Bihari Mallick, N.M.R. employed in Chudapali Electrical Section by the Executive Engineer, Bolangir Electrical Division with effect from April, 1991 is legal and/or justified? If not to what relief Sri Mallick is entitled?”
3. One of the principal grounds of challenge to the impugned Award, whereby the Labour Court has directed reinstatement of the Opposite Party workman with full back wages, is that there was an inordinate delay in the workman invoking the statutory processes for relief.

4. Having heard learned counsel for the parties, it appears to the Court that the workman did not seek to invoke the statutory process till 1997 although his service was allegedly terminated illegally by the Petitioner Management in April, 1991. There is no satisfactory explanation for this delay. Then again, the reference to the Labour Court was made only on 10th May, 2002 i.e. five years after the failure of the conciliation proceedings. This delay is again not satisfactorily explained. Worse still, the statement of claim itself was filed by the workman in the Labour Court only in 2005 i.e. three years after the making of the reference.

5. There being inordinate unexplained delay at every stage of the proceedings, the Labour Court ought not to have proceeded to adjudicate the reference without first deciding the above fundamental issue of delay in the workman invoking the statutory machinery for relief.

6. For the aforementioned reasons, the impugned Award of the Labour Court is hereby set aside.

7. The writ petition is allowed. No order as to costs.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge