

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No. 3513 of 2013

Bichitra Madeli

....

Petitioner

M/s. Satyabrata Mohanty, Advocate & Associates

-versus-

Presiding Officer, Central Govt.

....

Opposite Parties

Industrial Tribunal and another

M/s. D.P. Nanda, Senior Advocate & Associates

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

19.07.2022

Order No.

08.

1. The challenge by the Workman in the present petition is to an Award dated 9th August 2011, passed by the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar in I.D. Case No.15 of 2009.

2. The dispute referred to the Labour Court for adjudication was as under:

“Whether the action of the Management of M/s. J.M. Baxi & Co., by terminating the services of workman w.e.f. 10.12.07 of Shri Bichitra Madeli, Driver engaged by them without notice compensation is legal and justified? What relief the workman is entitled to?”

3. The following two issues were framed by the Labour Court on the basis of the pleadings of the parties:

“1. Whether the disputant-workman was ever appointed/engaged in any post by the Management-company and whether Shri S.K. Panda, Dy. Manager without any authority has appointed/engaged the disputant-workman for his own convenience?

2. Whether the action of the Management of M/s. J.M. Baxi & Co., by terminating the services of the workman with effect from 10.12.2007 of Shri Bichitra Madeli, Driver, engaged by them without notice compensation is legal and justified?”

4. While on Issue No.1, the Labour Court held in favour of the Workman, on Issue No.2, it found that he had not placed any documentary evidence to show that he was continuously engaged by the Management as Driver between 9th January and 9th December, 2007. The witness examined by the Workman, Dibakar Panda, in his cross-examination stated that “I cannot say the date of joining and date of leaving of the disputant-workman”. Further, the Labour Court found that only a Photostat copy of Port entry permit was furnished by the Workman. This in no way showed that he had continuously worked for 240 days in the 12-Calendar months preceding the date of termination.

5. The above findings of the fact have not been able to be overcome by learned counsel for the Petitioner who merely submitted that the Workman should be given one more opportunity of producing evidence by the matter being remanded to the Labour Court.

6. The Court is unable to agree with the above submissions. Sufficient opportunity was given to the Workman to prove his claim which he has failed to do. Consequently, the Court finds no

error having been committed by the Labour Court in rejecting the claim of the Petitioner/Workman.

7. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

S. Behera

