

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.29206 of 2013

Ramesh Kumar Paschimakabata

Petitioner

Mr. S.B. Jena, Advocate

-versus-

***The Management of Animal Disease
Research Institute, Cuttack***

Opposite Party

Mr. P.K. Muduli, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

02.08.2022

Order No.

08.

1. The challenge in the present writ petition is to an Award dated 24th August, 2013 passed by the learned Industrial Tribunal, Bhubaneswar in I.D. Case No.56 of 2011.

2. The following dispute was referred to the Tribunal for adjudication:

‘Whether the termination of services of Sri Ramesh Kumar Paschimakabata. N.M.R./Field Attendant by the Management of M/s. Animals Disease Research Institute, Phulnakara, Cuttack with effect from 01.03.2004 by way of refusal of employment is legal and/or justified? If not, what relief Sri Paschimakabata is entitled to?’

3. The case of the workman was that he had been working as an NMR/Field Assistant under the Management from 1st June, 1991 to 28th February, 2004 and had completed 240 days in the twelve calendar months prior to his termination. He claimed violation of

non-compliance with Section 25-F(a)(b), 25-G and 25-H of the Industrial Dispute Act, 1947.

4. For non-payment of wages from the period 1st October, 1993 to 1st September, 1994 and again from 1st June, 1991 to 28th February, 2004 the workman approached the Labour Court in I.D. Misc. Case Nos.233 of 1995 and 77 of 2006 in which the Labour Court directed payment of his dues. The above claim was refuted by the Management. According to the Management he was engaged on daily wages basis from 1st May, 1991 from time to time with interruptions and he was not engaged after 31st March, 2002.

5. As regards the issue concerning the engagement of the workman beyond 31st March 2002, the Tribunal examined the copy of the order passed by the Labour Court in I.D. Misc. Case No.77 of 2006. However, the pay slip produced by the Petitioner himself before the Tribunal did not show his engagement up to 28th February, 2004. Therefore, apart from the copy of the order of the Labour Court there was nothing to substantiate the workman's claim that he had worked beyond 31st March, 2002 up to 28th February, 2004.

6. Learned counsel for the Petitioner again referred to the earlier order of the Labour Court and urged that by itself it was sufficient to prove that the workman had worked till 28th February, 2004. As noted by the Tribunal there is no supporting document to show that the workman continued till 28th February, 2004. If any such document had been produced before the Labour Court, then such

document ought to have been produced before the Tribunal in the instant case particularly since the Management disputed that the workman was engaged beyond 31st March, 2002. The workman as a claimant had the burden of proving that he had been working till 28th February, 2004. He did not discharge that burden. In the circumstances, the Tribunal cannot be faulted in rejecting his claim about the illegality of refusal of work after 28th February, 2004 by the Management.

7. The Court is unable to find any error having being committed by Tribunal which calls for the interference.

8. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

TUDU