

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22852 of 2012

M/s. Mazda Concrete Products Private Ltd., Khurda ***Petitioner***

Mr. P.K. Rath, Advocate

-versus-

Sri Doctor Routray ***Opp. Party***
Mr. Susanta Dash, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIAK**

Order No.

**ORDER
02.08.2022**

07.

1. The challenge in this petition by the Management it to the impugned order dated 19th July, 2012 passed by the Industrial Tribunal, Bhubaneswar in I.D. Case No.17 of 2011 and its subsequent order dated 30th August, 2012 declining to recall the earlier order rejecting the application by the Petitioner for impleading the previous management as a party.

2. The ground of challenge is that the term of reference mentioned the date of refusal of employment to the Workman to be May, 2000 whereas the present Petitioner management took over the unit from the erstwhile management by an agreement dated 3rd October, 2000. It is pointed out by Mr. P.K. Rath, learned counsel for the Petitioner that the schedule of the said agreement contained a list of workmen whose services were taken over. The said list did not include the present Opposite Party workman.

3. Initially, the Tribunal appears to have accepted the plea and directed notice to issue to the erstwhile management by order dated 10th February, 2012. However, subsequently by the order dated 19th July, 2012 the Tribunal declined the prayer stating that unless the pleadings were amended to show that the erstwhile management was a necessary party, the Tribunal would not be inclined to implead the erstwhile management. The Petitioner's application seeking recall of the above order dismissed by the second impugned order dated 30th August, 2012.

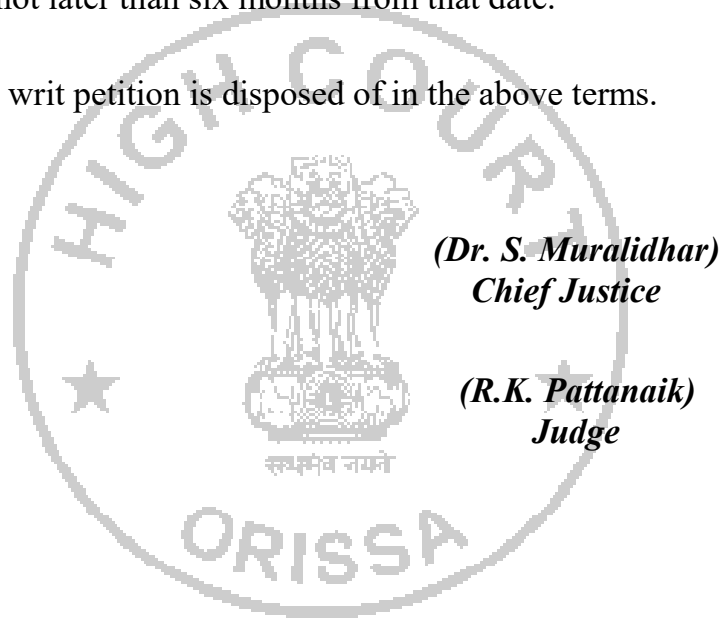
4. It is not disputed by the learned counsel for the Workman that in the schedule to the agreement his name does not figure. However, he is unable to explain the omission of his name from the list. He agrees that in order to explain this anomaly, it will be necessary to examine the erstwhile management. This is even assuming that in the conciliation proceedings the Workman maintained that he had been refused employment on 21st December, 2000 and not May, 2000 as mentioned in the term of reference.

5. Since in any event the erstwhile management is a necessary party to the dispute raised by the Workman, this Court set aside the impugned orders dated 19th July, 2012 and 30th August, 2012 of the Tribunal and directs that in I.D. Case No.17 of 2011 pending before the Tribunal, the erstwhile management i.e. M/s. P.C. Patra and Associates represented by Sri Purna Chandra Patra or its successor in interest, whoever that may be, will be impleaded as a necessary party. It will be the responsibility of the

present Petitioner to ensure service of notice on such party in accordance with law.

6. The interim order passed earlier is vacated. The aforementioned I.D. Case No.17 of 2011 will now be listed before the Industrial Tribunal, Bhubaneswar for directions on 5th September, 2022. Considering this is an old dispute, the Tribunal is requested to dispose of the reference as expeditiously as possible and in any event not later than six months from that date.

7. The writ petition is disposed of in the above terms.



(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge