

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11222 of 2012

***The United Puri Nimapara Central
Cooperative Bank Ltd.***

.... Petitioner

M/s. Baidhar Sahoo and associates, Advocates

-versus-

***Government of Odisha, Labour and
Employment Department,
Bhubaneswar and Others***

.... Opposite Parties

Mr. Debakanta Mohanty, AGA and

M/s. L Dash and associates, Advocates for Opposite Party No.4

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

**ORDER
20.07.2022**

Order No.

- 04.
1. This is a petition by the Management questioning the award dated 26th February, 2011 passed by the Labour Court, Bhubaneswar disposing of ID case No.83 of 1994 and directing that in lieu of reinstatement, since the workman had already superannuated, he should be paid a lump sum compensation of Rs.2 lakhs.
 2. While notice was issued in the present petition on 20th July 2012, there was no stay of the impugned award.
 3. This Court has heard the submissions of learned counsel for the parties.
 4. The dispute referred to the Labour Court for adjudication was as under:

“Whether the action of the management in keeping Sri Kasinath Prusty, Asst. Jr. Supervisor under suspension with effect from 15.3.78 without initiating disciplinary proceeding is legal and/or justified? If not what relief the workman is entitled to?”

5. The background facts are that the Opposite Party-Workman was working as an Assistant Junior Supervisor in Satyabadi Cooperative Society of the Management since January, 1973. By an order dated 5th January, 1975 he was posted at the Bira Narsinghpur Service Co-operative Bank Limited. By an order dated 7th January 1978, he was transferred from the Ratnachira Service Co-operative Society, Puri to the head office at Puri. It is stated that at Puri, the Secretary of the head office refused to accept his joining report and informed the Workman that he would be suspended soon. Admittedly, the Workman was suspended on 29th March, 1978. Charges were drawn against him on that date to which he replied on 15th May, 1978.

6. According to the Workman thereafter nothing was heard of the disciplinary enquiry and no subsistence allowance was also paid to him. After 11 years in 1989, an Enquiry Officer was appointed. However, till the date of raising the industrial dispute, the enquiry had not concluded. It is in the above circumstances that the above reference was made to the Labour Court for adjudication.

7. In the written statement filed by the Management it was contended that the fact of suspension and non-conclusion of the disciplinary proceedings cannot constitute an industrial dispute. It was claimed that the non-conclusion of the disciplinary proceedings was only on account of non-cooperation of the Workman.

8. The Labour Court rejected the contention that the non-completion of the disciplinary proceedings and keeping a Workman under suspension without payment of subsistence allowance could

not constitute an industrial dispute within the meaning of Section 2(k) of the Industrial Disputes Act, 1947 (ID Act). It was held, and in the view of this Court correctly, that the expression “any difference of opinion” between the Workman and the Management is broad enough to include the non-conclusion of the disciplinary proceedings and keeping a workman indefinitely under suspension.

9. Before this Court, a plea was raised by the counsel for the Petitioner that the dispute ought to have been adjudicated under Section 68 of Orissa Co-operative Societies Act, 1962. No such plea was raised before the Labour Court during the long years when the dispute was pending in that Court. Such a plea is not taken even in the written statement filed by the Management. In fact, it did not even raise an objection that the Management is not an industry within the meaning of ID Act.

10. On the merits of the case, the categorical finding of the Labour Court is that there has been a 11 years delay in even appointing the Enquiry Officer. While the charge sheet was drawn up on 29th March 1978, the Enquiry Officer was appointed only on 13th May, 1989 i.e. after a gap of 11 years. Even before this Court, learned counsel for the Petitioner had no valid explanation for this inordinate delay.

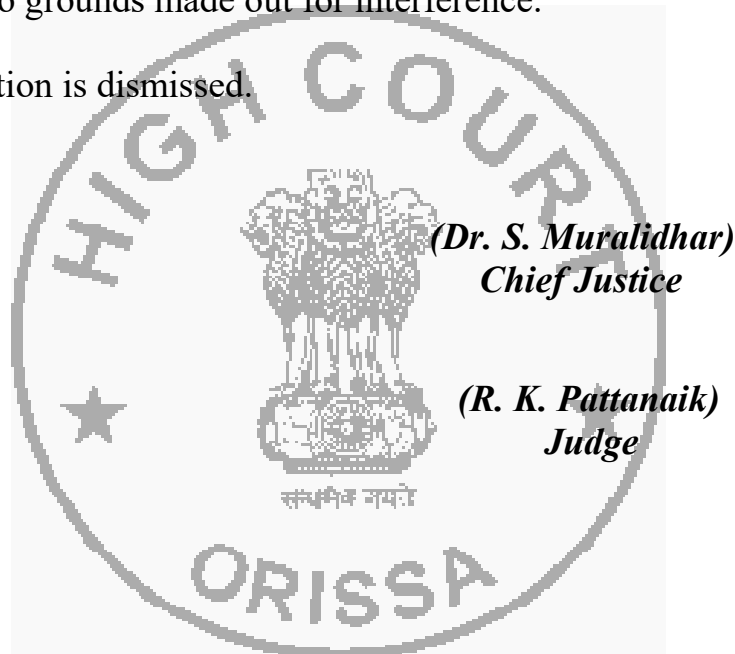
11. As regards the reason for not concluding the enquiry although it was contended by the Management before the Labour Court that it was on account of non-cooperation of Workman, the Labour Court observed that “no sufficient materials have been proved” in support of such contention.

12. Therefore on factual basis, the Labour Court came to a conclusion that there was absolutely no justification for non-

conclusion of the disciplinary enquiry for several years and for non-payment of subsistence allowance to the employee during all those years.

13. It must be recalled here that the employee was suspended in March, 1978 and during the pendency of the proceedings in the Labour Court, he attained the age of superannuation. Therefore, for well over 30 years, he went without any relief whatsoever. In the circumstances, granting him as lump sum compensation of Rs.2 Lakhs can hardly be said to be unfair or unreasonable. There are absolutely no grounds made out for interference.

14. The petition is dismissed.



M. Panda