

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5315 of 2013

The Management of Ispal Alloys Ltd., Balasore *Petitioner*

Mr. B.P. Tripathy-2, Advocate

-versus-

State of Odisha and another *Opp. Parties*

Mr. S.B. Mohanty, Advocate

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

Order No.

**ORDER
01.08.2022**

04.

1. The following dispute was referred to the Industrial Tribunal, Bhubaneswar for adjudication in I.D. Case No.196 of 2008:

“Whether the action of Ispat Alloys Ltd. Balgopalpur in terminating the services of Sri Golak Sekhar Rout, Junior Engineer w.e.f. 20.9.96 is legal and/or justified? If not, what relief Sri Rout is entitled to ?”

2. The Tribunal took up the issue of the fairness of the domestic enquiry as a separate issue and passed an order on 13th May, 2011 holding that the enquiry was unfair and improper. Thereafter, the Tribunal took up the issue of justification and validity of the termination of the services of the Opposite Party workman. On this specific issue it was noted as under:

“It is pleaded in the Claim Statement that on 14.12.95 the Second Party/Workman was falsely implicated by the First Party in a case of theft of a ‘T’ Handle a tool worth Rs.50/- only. On the allegation of theft he was asked to show-cause

and was put under suspension pending disciplinary proceeding. The Management appointed a person of their own choice as the Enquiry Officer (for short, the 'E.O.') who acted at the will of the Management and conducted the proceeding in a biased manner. In course of the enquiry the Workman was not given a fair chance of hearing. On conclusion of the enquiry the E.O. submitted his report recording a finding that the charges were proved. However, a copy of the report was never served on the Workman. The disciplinary authority, without following the provisions contained in the Certified Standing Orders (for short, 'C.S.O.') of the First Party, outrightly passed order dismissing the Workman from his service w.e.f. 20.9.96. The Second Party thus takes the stand that the disciplinary proceeding being unfair and ill-intended and the punishment being disproportionate, the impugned order be set aside and the Workman be reinstated in service with back wages and other service benefits."

3. This Court heard the submissions of learned counsel for the parties.

4. As far as the first impugned order dated 13th May, 2011 is concerned, the finding of the Tribunal is based on the records of the enquiry produced before it. The Tribunal noted that a serious charge of commission of theft of the company property had been made against the workman and the order sheet did not reflect that the Management raised an objection to the workman's prayer to engage an advocate. It was accordingly held that the Enquiry Officer (EO) ought to have permitted the Workman to do so. The same was the position as regards the Workman's prayer for a direction to the Management to supply of the copy of the Tools issue register. The Tribunal again found that the copy of the entire CSO as demanded by

the Workman was not supplied to him and that too despite the Management not raising any objection. The enquiry report itself was examined thread bare and a conclusive finding was reached that there was failure in several counts including the failure to issue a second show cause notice on the proposed punishment.

5. The Court is unable to find any error having been committed by the Tribunal in passing the Award dated 13th May, 2011 holding the enquiry not to be fair.

6. As far as the second impugned order dated 30th August, 2011 is concerned, the extracted portion hereinabove reveals that the Management failed to adduce any evidence whatsoever to bring home the charges against the Workman. Learned counsel for the Petitioner was not able to give any satisfactory explanation for the failure by the Management to produce evidence despite taking adjournment on three dates. Consequently, the Court is unable to find any error in the second impugned order as well.

7. The writ petition is accordingly dismissed. No order as to costs. The interim order dated 8th March, 2013 passed earlier is hereby vacated.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge