

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.17710 of 2015

Sudam Charan Mallick

.....

Petitioner

Mr. B. Baral, Adv

-Versus-

***The Presiding Officer, Labour
Court, BBSR and Anr.***

.....

Opp. Parties

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

29.08.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. From the note of the Registry dated 25.08.2022, it transpires that the notice was issued on the Opposite Parties No.1 and 2 by Registered Post with A.D. But neither the acknowledgement card nor the undelivered notice has returned.
3. In view of that, we deemed the service as complete in terms of the provisions of Order 5 Rule 9 (5) read with the proviso of the CPC.
4. Heard Mr. A. N. Das, learned counsel appearing on instruction of Mr. B. Baral, learned counsel for the petitioner (the workman).
5. The short question that falls for consideration in this petition is that whether the order dated 15.05.2015 as passed by the Labour Court, Bhubaneswar in Industrial Dispute Misc. Case No.1 of 2013 is sustainable or not. Admittedly, the petitioner filed the petition before

the Labour Court under Section 33-C-(2) of the I.D. Act, 1947 for computation of the money due to him.

6. The very crux of the provision under Section 33-C relates to recovery of money, due from an employer, when the workman is entitled to receive any money from the employer or any benefit which is capable of being computed in terms of the money. By that question that would be invariably decided is whether the said money is due to the workman or not. This issue can only be decided by Labour Court and accordingly, the petitioner had approached the Labour Court to realize the purported due from the Opposite Party No.2.

7. The Labour Court having briefly stated the facts has observed, *inter alia*, that the petitioner had received his wages for the period from 08.12.2009 to 31.01.2011 and he was compelled to remain in the company Headquarters at Angul from 31.03.2011 to 01.10.2011 to attend the inquiry of the Assistant Labour Commissioner (ALC) Angul and awaiting the decision of the company.

8. According to the Management represents by the Opposite Party No.2 herein, the petitioner was being a retired employee engaged as a Multi Skill Technician under M/s. Bhusan Steel Ltd. on 11.12.2009. After 13 months, it was observed that he was not fit for the job for which he was transferred to J.S.W Steel Ltd., Torangallu, Bellary of Karnataka.

9. It is an admitted position that the petitioner did not join his new place of posting. A complaint was initially filed to the Asst. Labour Commissioner (ALC) on 02.04.2011.

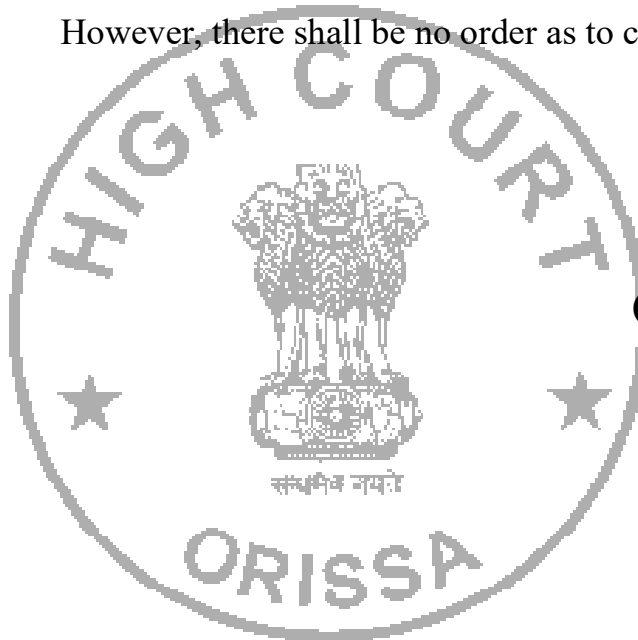
10. The petitioner demanded to perform his duty at Angul, not in his place of transfer. No action was taken on his complaint filed before the (ALC). It has been further stated by the Management that

even the petitioner is not entitled to get any leave salary as claimed as he has not completed 240 days in a calendar year.

11. Finally, on appreciation of the evidence, as laid by the parties, the Labour Court has observed that as the petitioner has not performed his duty in obedience of the transfer order issued by the Management, he is not entitled to the wages for the period for which the claim has been raised.

12. We do not find any infirmity in the order as challenged, therefore, this petition stands dismissed.

13. However, there shall be no order as to costs.



(S. Talapatra)
Judge

(M.S. Sahoo)
Judge