

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C). No.32974 of 2011

The Management of M/s. Petitioners
Kalamandir Fashion & Others

Mr. Aditya Mishra, Advocate

-versus-

Pravat Ku.Prusty Opp. Parties
None

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAİK

Order No.

ORDER
10.05.2022

06.

1.The challenge by the Management is to an award dated 25th April, 2011 passed by the Labour Court, Bhubaneswar in I.D. Case No. 66 of 2003.

2. The following question was referred to the Labour Court for adjudication was as under:

“Whether the action of the management of M/s. Kalamandir Fashion, Bhubaneswar in terminating the services of Sri Pravat Kumar Prusty, Salesman with effect from 03.12.2002 is legal and/or justified? If not, what relief is Sri Sahu is entitled to?”

3. The case of the workman was that he joined in the management as a Salesman in July, 1993 and he was declared permanent in November, 1993. On 30th November, 2002 he remained absent in the second half and thereafter, went on leave for 2 ½ days as his father had become suddenly ill. When he reported back for duty on 3rd December 2002, he

was not allowed to join his duty and this gave rise to an industrial dispute which was referred for adjudication.

4. The management filed a written statement partly admitting to the facts as urged by the workman. However, their contention was that the workman was deliberately absent from duty without any prior intimation and never returned to the establishment. He also deliberately avoided receiving the chargesheet which was sent by a registered letter and it came back undelivered.

5. Although the management claimed to have conducted a domestic enquiry prior to the termination of the service of the workman, before the Labour Court no document was produced by the management in support thereof. The Labour Court therefore had to accept the case of the workman and proceeded to hold that the termination of his services was neither legal nor justified. However, no relief of back wages was granted. The Labour Court only ordered his reinstatement.

6. While notice was directed to be issued in the present petition on 2nd January 2012, the Award was stayed subject to compliance with Section 17-B of the Industrial Disputes Act, (I.D.Act).

7. Counsel for the Petitioner today states that the management had filed Misc. Case No. 938 of 2013 seeking recall of the above order since, according to the management, the workman was gainfully employed elsewhere throughout. Be that as it may, the above application was never listed before this Court.

8. Although, counsel earlier entered appearance on behalf of the workman, today none appears on his behalf.

9. The main contention of the learned counsel for the management is that a settlement was entered into between the parties which was presented to the Labour Court in the form of a petition. He refers to the proceedings before the Labour Court on 10th February, 2010 which notes that there was such a joint petition but since the Presiding Officer was on leave, the matter was adjourned to 18th March, 2010. For three dates thereafter i.e., 18th March, 15th April and 23rd June 2010, the management's representative was absent. Again, on 20th January, 7th February, 10th March and 15th April 2011, none was present before the Labour Court on their behalf.

10. With the management staying away from the Labour Court, the question of the Labour Court having to accept the settlement between the parties did not arise. Someone had to be present to ask for an order to be passed in terms thereof. Therefore, the Labour Court cannot be faulted for proceeding with the matter on merits and passing the impugned Award.

11. This Court is not satisfied that the Labour Court has committed any error in passing the impugned Award in favour of the workman. It calls for no interference. The writ petition is accordingly dismissed. The interim order is vacated.

(Dr. S. Muralidhar)
Chief Justice

(R.K.Pattanaik)
Judge