

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 28235 of 2011

Dillip Kumar Das @ P.K. Das ***Petitioner***
Mr. Pradeep Kumar Das, Advocate
-versus-
State Bank of India ***Opposite Party***
Mr. Dilip Kumar Mishra, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

Order No.

ORDER
22.03.2022

08. 1. The Petitioner workman challenges an Award dated 11th June, 2010 passed by the CGIT-cum-Labour Court, Bhubaneswar ('Tribunal') in Tr. I.D. Case No.204 of 2001. By the impugned Award, the Tribunal answered the following reference made to it for adjudication against the workman:

“Whether 106 days worked by the disputant Shri Dilip Kumar Das in the name of Shri P.K. Das will be taken into account for calculation of 240 days during the preceding period of 12 months i.e. between Sept. 1993 to August 1994 before the termination? If yes, whether the termination of the disputant is legal & justified? If not, what relief the disputant is entitled to?”

2. The case of the Petitioner workman is that he had joined in the Utkal University Branch of the State Bank of India (SBI) as a Messenger (Casual) in January, 1990. He claims to have worked continuously till 31st August, 1994. According to the Petitioner, SBI would engage him on continuous basis but under multiple

names like Dilip @ Pradip, Dipak and Sanjib. According to the Petitioner, he started a service in the name of Dilip K. Das but later his name was changed to Pradip Kumar Das and then Dipak Das and finally Sanjib Das. According to him, he was discontinued on 31st August, 1994. However, he claims that he was again engaged as Messenger at the OUAT Branch where he worked between 4th November, 1995 and 31st July, 1996. Thereafter, he raised the industrial dispute.

3. The stand of Opposite Party SBI was that the Petitioner had been engaged purely on a temporary basis at different intervals and never continuously. SBI also denied that the workman had worked continuously under different names. It was categorically denied that the workman had completed 240 days continuous service and was entitled to the statutory protection.

4. One of the issues considered by the Tribunal was whether the period of 106 days during which the workman supposedly worked in the name of Sri P.K. Das would be taken into account for calculating 240 days of continuous service in the period of 12 months between September, 1993 and August, 1994?

5. The workman examined himself as W.W. 1 and exhibited documents Ext.1 to Ext.5. SBI examined two management witnesses (MWs) and exhibited documents Ext. A to E.

6. Regarding the above issue, the Tribunal noted that in his oral evidence, the workman had stated that on the advice of the Chief Manager Shri K.C. Sahoo, he had changed his name from Dilip

Kumar Das to P.K. Das. However, Sri K.C. Sahoo who was himself examined as MW 1 denied the above allegations. He stated that he was never the Chief Manager of the Utkal University Branch of SBI. He was the Branch Manager between October 1991 and 1992.

7. Apart from the oral statement of the workman, no other evidence was produced by him in support of the claim. The cash payment register showed at certain places the signature of one Sri P.K. Das. There was nothing to show that said P.K. Das was the same person as the workman i.e. Sri Dilip Kumar Das. Signatures of the two persons were different.

8. Importantly, in his cross-examination, the workman admitted that “in my complaint before the A.L.C. (Central) I had stated to have had worked continuously in my original name Dilip Kumar Das.....I have not mentioned in my complaint petition that I was asked by Shri K.C. Sahu, Branch Manager to change my name to Shri P.K. Das for the purpose of getting further employment.”

9. The Tribunal further noted that the workman admitted that in his application marked as Ext-A he did not include the period during which he had worked as P.K. Das. Accordingly, the Tribunal concluded that the workman was not entitled to include the 160 days during which he allegedly worked in the name of Sri P.K. Das for calculating the 240 days’ of continuous service in the preceding 12 months i.e. September, 1993 to August, 1994.

10. In the statement produced by the workman (Ext.3) regarding his having worked from January, 1993 to August, 1994 the Tribunal found that he had in fact worked only for 142 days in the period of 12 months between September, 1993 and August, 1994. He had not rendered 240 days' continuous service and was, therefore, not covered under Section 25-F of the Industrial Disputes Act (ID Act).

11. Learned counsel for the Petitioner contended that the term of the Presiding Officer of the Tribunal who was hearing the case ended on 1st June, 2009. A new officer joined on 26th November, 2009. The case was listed on 29th April, 2010 and thereafter adjourned at the request of the workman to 12th May, 2010. According to the learned counsel for the Petitioner, without a proper hearing the case was closed and the Award was passed on 11th June, 2010. The Award was made available to the Petitioner only on 3rd August, 2010.

12. The Court is unable to appreciate how the above details help the case of the Petitioner. It was incumbent on him to show that he had rendered 240 days continuous service in the preceding 12 months i.e. between September, 1993 and August, 1994. It is contended by counsel for the Petitioner that during the above period, the Petitioner had worked for 196 days in the name of Dilip Kumar Das and 106 days in the name of P.K. Das. However, learned counsel for the Petitioner was unable to show any piece of evidence that would substantiate his contention that the Petitioner was in fact P.K. Das. Factually, this has been

disbelieved by the Tribunal, which has carefully analyzed the entire evidence. Apart from his own assertion, no credible piece of evidence was produced by the Petitioner in this regard.

13. The Court is unable to find any ground for interference with the impugned Award of the Tribunal. The writ petition is accordingly, dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge



S.K. Jena/P.A.