

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C). No.29328 of 2011

Executive Engineer, Mahanadi ***Petitioner***
South Division, Cuttack

Mr. P.K.Muduli, AGA

-versus-

Presiding Officer, Labour Court & ***Opp. Parties***
another

None

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIAK

ORDER
05.04.2022

Order No.

08.

1. The challenge by the management in the present petition is to an Award dated 4th December, 2010 passed by the Labour Court, Bhubaneswar in Industrial Dispute Case No. 42 of 2007.

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

“Whether the action of the Executive Engineer, Mahanadi South Division, Jobra, Cuttack in terminating the services of Sri Prafulla Kumar Das, Ex-D.L.R/N.M.R with effect from 1.11.2003 by way of refusal of employment is legal and/or justified? If not, what relief Sri Das is entitled to?”

3. In order to substantiate the case he has been engaged by the management as Junior Engineer in October, 1991 and that he continued as such till 30th April, 1994, the workman produced the xerox copy of a letter dated 29th July, 1997 of the Asst. Engineer, Minor Irrigation Sub-Division (Ext.1) which showed his name as an N.M.R./D.L.R. engaged with effect from 1993. The same document showed him to be in the list of D.L.R. for the year 1990-91. In addition to this, the workman produced a certificate issued by the Junior Engineer, Jagannathpur Section regarding his engagement from October, 1991 to 30th April, 1994.

4. The case of the management was that the workman had been engaged as N.M.R. only from 1st April, 2001, 28.02.2002. No document was produced by the management to show that the workman was not engaged earlier than the above dates whereas the workman had produced documents showing to the contrary. These were allowed to be exhibited with no objection by the management.

5. On an overall consideration of the above evidence, the Labour Court came to the conclusion that the workman had indeed continuously worked from 1991 onwards till the date of termination of his services i.e. 1st November, 2003.

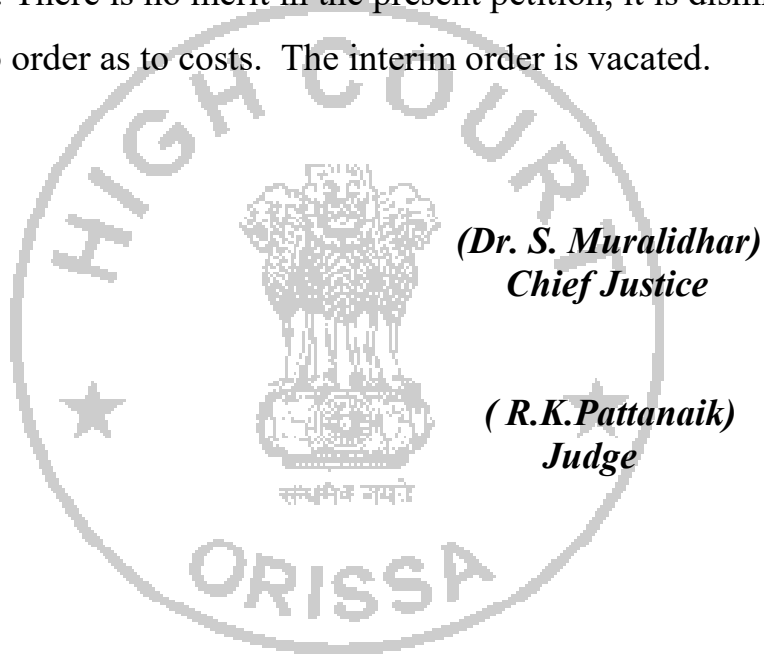
6. A perusal of the impugned Award reveals that the Labour Court proceeded on the evidence before it to come to the above conclusion. There is nothing perverse in the above analysis of the evidence by the Labour Court.

7. It is argued by Mr. Muduli, learned AGA appearing for the Management that the Labour Court ought not to have ordered reinstatement but could have awarded lump sum compensation in lieu of reinstatement. Reliance is placed on the recent judgment of the Supreme Court dated 2nd September, 2021 in Civil Appeal No. 4483 of 2010 (*Ranbir Singh v. Executive Engineer, P.W.D.*)

8. In the present case, it is seen that the Labour Court accepted the case of the workman that he had been continuously employed by the management for over 12 years i.e. from October, 1991 till 1st November, 2003. The above order of the Supreme Court in *Ranbir Singh (supra)* does not proceed to hold that, that can never be any reinstatement as a relief for wrongful termination of services in contravention of Section 25-F of the I.D. Act. It is only an alternative means of providing relief. By no means will a Labour Court's order directing reinstatement be declared to be erroneous only because it did not order compensation in lieu of reinstatement. These are the discretionary reliefs which are to be granted keeping in view the facts and circumstances of every case.

9. In the present case with a worker having put in 12 years of continuous service prior to the termination of services, it was not incumbent on the Labour Court to have denied reinstatement and ordered compensation. In other words, the Court finds nothing erroneous in the impugned order of the Labour Court in so far as it has ordered reinstatement with a lump sum compensation of Rs. 20,000/- in favour of the workman.

10. There is no merit in the present petition, it is dismissed. No order as to costs. The interim order is vacated.



Kabita