

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20765 of 2022

Manoj Kumar Meher

.....

Petitioner

Mr. S.K. Garnayak, Advocate

-versus-

State of Orissa and Ors.

.....

Opposite Parties

Mr. D.K. Nayak, AGA

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

23.09.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.K. Garnayak, learned counsel appearing for the Petitioner and also heard Mr. D.K. Nayak, learned Additional Government Advocate appearing for the Opposite Parties No.1 and 2.
3. By means of this writ petition, the Petitioner has urged this Court to quash the order dated 03.07.2019 [Annexure-7 to this petition] and the notice inviting application for recruitment to the post of the Banking Assistant/Computer Operator in the Co-Operative Bank at Sambalpur and direct regularization of the service of the Petitioner in the post of Banking Assistant at Central Co-operative Bank at Sambalpur.
4. Mr. Garnayak, learned counsel, having referred to the order dated 30.03.2022 [Annexure-9 to this writ petition], has

submitted that the appropriate Government in the Labour and ESI Department, Government of Odisha has referred a dispute under Section 12 (5) read with Section 10(1)(d) of the Industrial Disputes Act, 1947. The schedule of the disputes reads as follows:

“Whether the termination of the workmen Sri Manoj Kumar Meher and Sri Gopinath Dalai by the management of Sambalpur District Co-Operative Central Bank Limited, Bargarh vide its order No.1541 and 1544 dated 03.07.2019 is legal and or justified? If not, what relief the workmen, Manoj Kumar Meher and Sri Gopinath Dalai are entitled to?”

5. Mr. Garnayak, learned counsel has candidly submitted that the said reference is still awaiting for adjudication and the Petitioner has been participating in the proceeding being I.D. Case No.1 of 2022. It appears that, after the reference, the Opposite Party No.3 has issued an advertisement [Annexure-11 to this writ petition] for filling up the vacancies available in the Bank. The Petitioner apprehends that by the said process, the Petitioner may be excluded from the consideration and in that contemplation, this writ petition has been filed. The prayers as urged in this writ petition are quashing of the order dated 03.07.2019 [Annexure-7 to the writ petition] and the notice inviting the application for appointment of Banking Assistant/Computer Operator [Annexure-11 to the writ petition]. Further, the Petitioner has

urged for directing regularization of the service of the Petitioner.

6. From the reference as made above, it has transpired clearly that the Petitioner has been terminated from the service. The reference has been made by the appropriate government to adjudicate whether such termination is legally valid or not. Without approaching the Labour Court, the Petitioner has approached this Court for redressal of his grievance. It has been noticed by us that the management had earlier filed one writ petition being W.P.(C) No.16251 of 2018 challenging the award dated 07.07.2018 passed by the Presiding Officer, Labour Court, Sambalpur, in I.D. Case No.12 of 2017. The reference was answered by directing the Opposite Party No.3 [the management] to reinstate the Petitioner in service in his former post with full back wages and all other consequential service benefits. That finding and direction were challenged by the management by the said writ petition. The said reference, as referred, reads as follows:

“Whether the action of the management of Sambalpur District Co-operative Central Bank Ltd., Bargarh in terminating the service of workman Sri Manoj Kumar Meher, At/Po. Tora, PS/Dist. Bargarh with effect from the 07.06.2014 by way of verbal refusal is held to be illegal and unjustified? If not, what relief the workmen Sri Meher is entitled to.”

7. After recording the evidence, as led by the parties, the Labour Court had held that the Petitioner had worked for more than 240 days and as such, his service could not have been terminated without following the requirements of Section 25-F of the Industrial Disputes Act, 1947. By the order dated 28.11.2018 as delivered in W.P.(C) No.16251 of 2018, the High Court affirmed the award of the Labour Court and accordingly the writ petition filed by the management stood dismissed. But afterwards on complying the requirement of Section 25-F of the Industrial Disputes Act, 1947, the Petitioner had been again terminated and being aggrieved, the Petitioner approached the District Labour Officer. But the said authority being failed to bring about any conciliation referred the dispute for adjudication by the Labour Court. There is no dispute that the reference is pending before the Labour Court, Sambalpur. As such, this writ petition ought not to have been filed by the Petitioner. He would have approached the Labour Court for passing any interim order, if any, as required for extending protection from immediate danger. Over the disputes, we will not lay our hand for obvious reasons. The Petitioner may move before the Labour Court, Sambalpur by filing appropriate interlocutory application in the pending proceeding. Thus, this Court refrains from exercising its plenary jurisdiction under Section 226 of the Constitution of India.

8. Consequently, this writ petition stands dismissed subject to the observations made above. There shall be no order as to costs.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge

Murmu

