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Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 21-Jan-2026 12:40:17

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C). NO.339 OF 2009

(An application under Articles 226 & 227 of the Constitution of India)

*****

Dharanidhar Khuntia ..... ***Petitioner***

-Versus-

1. ***Presiding Officer, Industrial Tribunal, Bhubaneswar***
2. ***Managing Director, M/s. Utkal Refinery Limited, Jagatpur, Cuttack***

..... ***Opp. Parties***

Advocates appeared:

For Petitioner : Mr. Bamadev Baral, Advocate

For Opp. Parties : Mr. Ajodhya Ranjan Dah,
Additional Government Advocate

CORAM :

MR. JUSTICE K.R. MOHAPATRA
MR. JUSTICE SANJAY KUMAR MISHRA

Heard and disposed of on 20.01.2026

JUDGMENT

By the Bench;

1. This matter is taken up through hybrid mode.

2. Petitioner in this writ petition seeks to assail the part of the Award dated 14th February, 2007 (Annexure-1) passed by learned Presiding Officer, Industrial Tribunal, Bhubaneswar in Industrial Dispute Case No.26 of 1999, refusing the back wages in favour of the Petitioner while directing his reinstatement.

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3. Mr. Baral, learned counsel submits that the Petitioner-Workman was serving as a driver under the Management-Opposite Party No.2. He rendered unblemished service to the Management from 1995 till 3rd August, 1997, when he was denied entry into the premises of the Opposite Party No.2-Management without assigning any reason. When the request of the Petitioner to allow him to discharge his duty did not render any result, the Petitioner raised the industrial dispute. On failure of conciliation, the matter was referred to the Industrial Tribunal**,** Bhubaneswar (for brevity 'learned Tribunal') for adjudication of the following reference:

> *"Whether the termination of service of Sri Dharanidhar Khuntia, Driver by the Managing Director M/ s. Utkal Refinery Ltd,| Jagatpur w.e.f. 04.08.97 is legal and/justified ? If not, what relief Sri Khuntia is entitled ?"*

4. On receipt of notice, the Workman-Petitioner so also First Party-Management (Opposite Party No.2) filed their respective statement of claims and written statement. The Petitioner, who is the second party-Workman, in his statement of claim stated that he joined as a driver under the Management on 20th March, 1995. He discharged his duties to the utmost satisfaction of his Authority till the year 1997. It was his stand that on 4th August, 1997, when he went to join his duty as usual, he was not allowed entry into the factory premises of the Management by the security personnel. On query, he came to know that the Managing Director of the Company instructed not to allow entry of the Petitioner to the factory premises. It was also stated that finding no way out, the Petitioner-Workman raised an industrial dispute before the District Labour Officer, Cuttack alleging termination of his service w.e.f.

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4th August, 1997. Accordingly, conciliation was taken up. Before the Conciliation Officer, Cuttack, the Management took a stand of unauthorized absence of the Petitioner from duty w.e.f. 4th August, 1997. Subsequently, a charge sheet was communicated to the Petitioner vide Letter dated 20th September, 1997, followed by a domestic enquiry. While admitting to have participated in the enquiry, the Petitioner-Workman stated that the enquiry so conducted against him without following the principles of natural justice. No opportunity was given to the Petitioner to defend him in the enquiry. The domestic enquiry was concluded without his knowledge. Thus, the enquiry so conducted was unfair and perfunctory. It was further contended in the statement of claim that the action of the Management amounted to termination of his service w.e.f., 4th August, 1997, which was illegal and unjustified. As the conciliation was not successful, a failure report was submitted to the appropriate Government and the matter was referred to the Industrial Tribunal for adjudication as per the aforesaid terms.

5. The Opposite Party No.2-Management in its written statement, disputing the claim of the Petitioner-Workman, stated that the second party-Workman initially participated in the domestic enquiry. But, because of his deliberate non-cooperation and rowdy behaviour, enquiry could not be concluded. It was also stated in the written statement that the Management never terminated the service of the second party-Workman. Vide Letter dated 11th November, 2000, the Petitioner-Workman was asked to join his services. It was also contended that since there was no

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termination of service of the Workman, the reference itself was unjust and not maintainable.

6. Although, the Petitioner-Workman adduced evidence in support of his case, but, the Management did not turn up to adduce evidence. Basing upon the pleadings of the parties, learned Tribunal framed issues in terms of the reference made by the appropriate Government. Learned Tribunal, holding that no rebuttal evidence to disprove the claim of the Petitioner-Workman was adduced, directed for reinstatement, but refused to grant him back wages. For better appreciation, the operative portion of the Award is reproduced hereunder:

> *"6. In his affidavit, evidence of the second party workman has stated that he worked as a Driver with the first party management from 1995 till August, 1997 with utmost sincerity and to the best satisfaction of the management, but without any reason or he was denied entry into the factory premises w.e.f. 4.8.97, which according to him amounts to termination of his service.* ***While admitting that subsequent to his refusal of employment the management wrote a letter to him for joining the work, he has stated that when he went to the factory, again the security guard did not allow his entry. His aforesaid evidence on record remained unassailed due to non-participation of the management at the hearing stage.*** *Had the management took steps and proved the misconduct, if any of the workman, the matter would have been otherwise. In absence of any rebuttal evidence therefore, I am constrained to* ***hold*** *that the refusal of employment to the second party workman w.e.f. 4.8.97 amounts to termination of his services and accordingly it is ordered that he be taken back to employment forthwith without any back wages."*
>
> *(Emphasis Supplied)*

7. Inspite of valid service of notice on the Management-Opposite Party No.2, none appears on its behalf.

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8. Mr. Baral, learned counsel for the Petitioner-Workman reiterating the stand of the Petitioner-Workman before learned Tribunal, submits that initially the Petitioner was not allowed entry to the factory premises on 4th August, 1997. Subsequently, a domestic enquiry was initiated against him. But, the result, if any, of the domestic enquiry was never communicated to the Petitioner. It is also submitted by Mr. Baral, learned Counsel that when the reference was pending before learned Tribunal for adjudication, the Petitioner was issued with a letter dated 11th November, 2000 to join his duties. In response to the said letter, the Petitioner went to join his duties. But, he was denied entry of the factory premises as before. Thus, the refusal of the Management to enter into the factory premises and join his duties amounted to termination. Considering the same, learned Tribunal directed for reinstatement of the Petitioner in service.

9. It is, however, submitted by learned counsel for the Petitioner that when he (the Petitioner) was unlawfully restrained to join his duties, he should have been paid full back wages. He further submitted that the Petitioner-Workman has not yet been reinstated in spite of direction of learned Tribunal. He, therefore, prays for modification of the impugned Award under Annexure-1 and direct the Management-Opposite Party No.2 to make payment of full back wages.

10. Taking note of the submissions made by learned Counsel for the Petitioner and on perusal of record, more particularly, the Award under Annexure-1, it is apparent that the Management-Opposite Party No.2, though filed its written statement, neither

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adduced any evidence nor participated in the hearing before learned Tribunal. Thus, it is rightly held by learned Tribunal that the case of the Petitioner-Workman went unrebutted. Taking into consideration the pleadings of the parties and the evidence adduced by the Petitioner-Workman, learned Tribunal, though directed the Management to reinstate him in service, but no back wages was awarded in favour of the Petitioner.

8. On perusal of the materials on record and the observations made by learned Tribunal, it appears that the Petitioner was denied entry into the factory premises. Further, a domestic enquiry was initiated against the Petitioner-Workman alleging his unauthorized absent. But, it is the specific case of the Management before learned Tribunal that domestic enquiry could not be concluded. It is also the case of the Management that when the reference was pending for adjudication, the Management had issued a letter dated 11th November, 2000 to the Petitioner-Workman to join his duties.

11. However, the Petitioner in his evidence specifically stated that pursuant to the said letter, he went to join his duties, but was not allowed to enter into the factory premises as before. Thus, it is clear from the materials on record that the Petitioner was denied entry into the factory premises in absence of evidence to the contrary. As such, the Petitioner is entitled to back wages. But, learned Tribunal, without assigning any reason, refused to grant back wages to the Petitioner-Workman.

12. Keeping in mind the facts and circumstances of the case and in view the ratio of ***Deepali Gundu Surwase vrs. Kranti Junior Adhyapak Mahavidyalaya (ED) and others,*** (2013) 10 SCC 324,

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in addition to reinstatement, as awarded in ID Case No.26 of 1999, this Court directs that the Petitioner be paid 50 % (fifty percent) of the back wages, i.e., from the date of refusal of employment till the date of Award dated 14th February, 2007 passed in ID Case No.26 of 1999. The back wages shall be paid to the Petitioner by the Opposite Party No.2-Management within a period of six months hence, failing which the Petitioner is at liberty to workout the remedy for implementation of the same.

13. With the aforesaid modification of the Award under Annexure-1, the writ petition is disposed of.

14. In the facts and circumstances of the case, there shall be no order as to costs.

Urgent certified copy of the judgment be granted as per rules.

(K.R. Mohapatra)
Judge

(S.K. Mishra)
Judge

Dated the 20th Day of January, 2026
High Court of Orissa, Cuttack///Rojalin///