AFR

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33354 of 2026

CNR No.ODHC010790102026

Mahendra Mohanty .... ***Petitioner(S)***

Mr. A.K. Jena, Advocate

-versus-

State of Odisha & Others .... ***Opposite Party(S)***

Ms. J. Sahoo, ASC

CORAM:
HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI
HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Hearing & Date of Judgment: 29.10.2026

CHITTARANJAN DASH, J.

1. This matter is taken up through hybrid arrangement.

2. The Petitioner has approached this Court assailing the award dated 10.07.2026 passed by the learned Industrial Tribunal, Bhubaneswar in I.D. Case No. 13 of 2024, whereby the reference made in respect of his claim for reinstatement in service with 50% back wages, at par with 39 other co-workmen, has been answered against him.

3. The factual background, in brief, is that the Petitioner was engaged as an NMR Helper under the Opposite Party-Management on 01.11.1988. By Office Order No.2297/WE

dated 29.11.2001, a number of work-charged and NMR employees, including the Petitioner, were retrenched with effect from 30.11.2001 on the ground that they had become surplus. Aggrieved by the said action, 39 other workmen, similarly affected by the very same order of retrenchment, raised an industrial dispute, which culminated in I.D. Case No.118 of 2002. The learned Labour Court, Bhubaneswar, by award dated 28.03.2009, declared their retrenchment illegal and unjustified and directed reinstatement with full back wages. The said award was unsuccessfully challenged by the Management before this Court in W.P.(C) No.13094 of 2009. Thereafter, in Civil Appeal No.4616 of 2013, the Hon'ble Supreme Court, by order dated 06.05.2013, maintained the direction for reinstatement but modified the award to the extent of reducing the back wages to 50%.

4. The Petitioner, admittedly, was not a party to the aforesaid industrial dispute or the subsequent proceedings. He claims, however, to have been similarly situated and subjected to retrenchment under the very same order. It is his case that, despite the benefit having been extended to the 39 co-workmen, his claim remained unattended. He subsequently approached this Court in W.P.(C) No.11132 of 2019, which was disposed of on 18.07.2019 granting him liberty to raise an industrial dispute before the appropriate forum. Pursuant

thereto, he raised the dispute before the District Labour Officer, Cuttack, on 12.10.2019. Upon failure of conciliation, the matter was referred to the learned Industrial Tribunal and registered as I.D. Case No.13 of 2024.

5. Learned counsel for the Petitioner submits that the learned Tribunal, despite recording a categorical finding regarding non-compliance with the mandatory requirements of Section 25-F of the Industrial Disputes Act, 1947, has denied the Petitioner any relief solely on the ground of delay. It is contended that the Petitioner had rendered continuous service for more than 240 days preceding his retrenchment and that the Management's own witness admitted that no documentary evidence had been produced to establish compliance with the statutory requirements. It is further submitted that the Petitioner cannot be deprived of consideration of his independent grievance merely because he was not a party to the earlier proceedings instituted by his co-workmen. Learned counsel also draws attention to the circumstances in which the Petitioner approached the labour machinery and submits that the delay ought to have been considered in the proper factual perspective, with the possibility of moulding an appropriate relief rather than rejecting his claim altogether.

6. Having heard learned counsel for the parties and upon perusal of the impugned award and the materials available on

record, this Court finds that certain aspects of the matter require reconsideration. The learned Tribunal, while considering the question of delay and maintainability of the reference, has ultimately recorded the following conclusion:

> "For the above exposition of law, this Tribunal is under legal obligation to find out if the dispute was stale and non-existent due to inordinate delay at the time it was referred for adjudication, even though the First Party-Management has not raised any objection to that effect.
>
> As such, considering the matter as a whole and further in view of the findings rendered in Issue Nos.2 and 3 above, the dispute between the Second Party-Workman and the First Party-Management having become stale and not a dispute in praesenti at the time of inference being made after long lapse of time, the reference is held to be not maintainable and the issue is answered accordingly."

7. It is evident from the above that the learned Tribunal has declined to entertain the reference on the ground that the industrial dispute had become stale and was no longer a dispute in praesenti. However, while arriving at the aforesaid conclusion, certain material circumstances appearing from the record also required consideration. Significantly, the learned Tribunal itself has recorded a categorical finding that the Petitioner's retrenchment was illegal on account of non-compliance with Section 25-F of the Industrial Disputes Act, 1947. The Management's witness, M.W.1, had admitted in cross-examination that no documentary evidence had been

produced to establish compliance with the statutory requirements and that no notice or compensation under the said provision had been furnished to the Petitioner. Further, the Petitioner's case was not merely founded upon the claim for parity with the 39 co-workmen but also upon the independent grievance arising out of his own retrenchment under the very same office order. These aspects, particularly when considered alongside the Petitioner's subsequent approach to this Court in W.P.(C) No.11132 of 2019 and the steps taken thereafter pursuant to the liberty granted therein, warranted a more comprehensive examination before the reference could be held to be no longer subsisting.

8. The legal position governing stale industrial disputes, as explained by the Hon'ble Supreme Court in ***Prabhakar v. Joint Director, Sericulture Department***, reported in **(2015) 15 SCC 1**, is that although no period of limitation is prescribed under the Industrial Disputes Act, the workman must demonstrate that the dispute continues to remain alive notwithstanding the delay. At the same time, where the dispute is found to be subsisting, the delay may be taken into account while moulding the relief. The possibility of granting reduced back wages or compensation in lieu of reinstatement is also recognised. Thus, the question whether the dispute had become stale and, if not, what relief could appropriately be

granted, required consideration in the factual context of the present case.

9. Another aspect which merits consideration is the Petitioner's explanation for the delay. The record indicates that he had approached this Court in W.P.(C) No.11132 of 2019, which was disposed of on 18.07.2019 granting him liberty to raise an industrial dispute. He thereafter approached the labour machinery on 12.10.2019, leading eventually to the reference. The learned Tribunal has noticed these circumstances but has principally rejected the explanation on the ground that the Petitioner had not furnished sufficient supporting materials. It has also noticed the Petitioner's assertion regarding a representation dated 22.12.2008, but observed that a copy thereof had not been produced. The chronology of the said representation, particularly in the context of the subsequent order of the Hon'ble Supreme Court dated 06.05.2013, also requires clarification. These aspects, in our considered view, ought to be examined upon affording the Petitioner a proper opportunity to substantiate his explanation and place the relevant materials on record.

10. In view of the aforesaid, this Court is of the considered opinion that the matter warrants reconsideration by the learned Industrial Tribunal, particularly in view of its own finding regarding non-compliance with Section 25-F of the Act.

The learned Tribunal is required to examine whether the industrial dispute continued to remain alive, having regard to the explanation for the delay and the subsequent steps taken by the Petitioner, and thereafter determine the nature of relief, if any, to which he may be entitled. While doing so, the Tribunal shall also examine the distinction between the Petitioner's claim for parity with the 39 co-workmen and his independent grievance arising out of the alleged illegal retrenchment. Needless to observe, the Petitioner cannot claim automatic entitlement to reinstatement or 50% back wages merely on the strength of the earlier award, particularly when he was not a party to those proceedings. At the same time, the question of an appropriate alternative relief, including compensation, if warranted in the facts and circumstances, deserves consideration in accordance with law.

11. Accordingly, the impugned award dated 10.07.2026 passed in I.D. Case No.13 of 2024 is hereby set aside. The matter is remitted to the learned Industrial Tribunal, Bhubaneswar, for fresh consideration and adjudication. The learned Tribunal shall afford due opportunity of hearing to the Petitioner as well as the Opposite Party-Management and permit the parties to place such further materials as may be necessary for proper adjudication of the dispute. The matter shall thereafter be decided afresh, by a reasoned award, keeping in view the

observations made hereinabove and in accordance with law, as expeditiously as possible.

12. It is made clear that this Court has not expressed any opinion on the merits of the Petitioner's entitlement to reinstatement, back wages or any other consequential relief, and the learned Tribunal shall arrive at its own independent conclusion upon consideration of the materials on record and the submissions advanced by the parties.

13. The writ application is accordingly disposed of.

(Dr. Sanjeeb K Panigrahi)
Judge

(Chittaranjan Dash)
Judge

AKPrahdan/Priyanka

Signature Not Verified
Digitally Signed
Signed by: ANANTA KUMAR PRADHAN
Designation: Senior Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 31-Oct-2026 14:40:36