
(2022) 07 OHC CK 0021

In the Orissa High Court

Case No : Writ Petition (C) Nos.135 and 136 of 2012

Managing Director, Orissa State Cashew Development
Corporation, Bhubaneswar

APPELLANT

Vs

Sudhansu Chandra Dash And Another

RESPONDENT

Date of Decision : 06-07-2022

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (2022) 07 OHC CK 0021

Hon'ble Judges : Dr. S. Muralidhar, CJ; R. K. Pattanaik, J

Bench : Division Bench

Advocate : S. C. Dash, P. K. Muduli

Final Decision : Dismissed

Judgement

1. The challenge in both these petitions filed by the Orissa State Cashew Development Corporation is two orders dated 24th October, 2011 passed by the Labour Court, Bhubaneswar in applications (Industrial Dispute Misc. Case Nos.73 of 1993 and 65 of 1993 respectively) filed by the Opposite Parties-Workmen under Section 33-C(2) of the Industrial Disputes Act, 1947 ('ID Act') claiming computation of monetary benefits due from the present Petitioner on account of engagement during weekly off days and break days.

2. Under both the impugned orders relatively insubstantial sums of around Rs.25,000/- have been directed to be paid by the present Petitioner to the Workmen. However, both those orders have been challenged before this Court and while issuing notice, more than 10 years ago, both the impugned orders have been stayed by this Court. The stay orders have continued since.

3. Learned counsel for the Petitioner kept harping on the point that both the Workmen had not worked on the weekly off days and break days and, therefore, they were not entitled the wages as claimed. Alternatively, he sought to contend that they had in fact been paid for such work and, therefore, what was granted

to them was a 'double benefit'.

4. The Court finds both the submissions to be incorrect. Before the Labour Court the Petitioner contested the claim of the Workmen stating that they were not entitled to be paid for the weekly holidays and off days. Also it was nowhere contended that they had already been paid for such work. On the contrary, in Para-6 of the impugned order, it is observed as under:

"6. It is further submitted that the claim of the applicant is based on the facts that even though he rendered work on the break days and weekly off days, he was not paid his wages for the same. The said facts and evidence has not been rebutted by the opposite-party in any manner whatsoever. The contention of the opposite-party in respect of maintainability of the claim under Section 33-C(2) of the Industrial Disputes Act,1947 is, therefore, misconceived and untenable."

5. Consequently, the Court finds no merit whatsoever in these petitions and they are dismissed as such. The interim orders passed earlier stand vacated.

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