
(1973) 05 OHC CK 0007
In the Orissa High Court
Case No : O.J.C. No. 1151 of 1970

Orissa Road Transport Company Ltd.	Vs	APPELLANT
Maguni Kar and Others		RESPONDENT

Date of Decision : 17-05-1973

Acts Referred:

Constitution of India, 1950 — Article 136, 226, 227
Industrial Disputes Act, 1947 — Section 33(2), 33C
Limitation Act, 1963 — Article 133

Citation : (1973) 39 CLT 741

Hon'ble Judges : G.K. Misra, C.J; S. Acharya, J

Bench : Division Bench

Advocate : Y.S.N. Murty, for the Appellant; S.B. Nanda and J.K. Tripathy, for the Respondent

Judgement

S. Acharya, J.—The Petitioner-Company has filed this petition-under Articles 226 and 227 of the Constitution of India praying for the issue of a writ of certiorari quashing the order dated 1-4-1970 passed by the Presiding Officer, Additional Industrial Tribunal (hereinafter referred to as the Tribunal) in Industrial Disputes Miscellaneous Case No. 145 of 1969 (96 of 1970), rejecting the Petitioner's application u/s 33(2)(b) of the Industrial Disputes Act (hereinafter referred to as the Act).

2. Opp. party No. 1 was working as a Bus Conductor under the Petitioner. On 26-9-1969 the General Manager of the Petitioner-Company passed an order that Opp. party No. 1 should be discharged from service from the date of the filing of the application u/s 33(2)(b) of the Act, on the finding that the Opp. party No. 1, while on duty in different buses allowed passengers to travel without ticket in those buses. After the aforesaid order was passed the Petitioner-Company filed an application u/s 33(2)(b) of the Act before the Presiding Officer, Industrial Tribunal, for obtaining approval of the said order of discharge. The matter was registered as Industrial Disputes Case No. 145 of 1969. Later the said matter was transferred to the file of the Presiding Officer, Additional Industrial Tribunal

and the case was renumbered as Industrial Disputes Case No. 96 of 1970. The said Miscellaneous Case was dismissed by the Tribunal on contest on 1-4-1970 (Annexure-3). The Petitioner by his writ petition prays that a writ of certiorari may be issued to quash the aforesaid order of the Tribunal as the said order, according to the Petitioner, is vitiated due to the several reasons and grounds mentioned in the writ petition. We do not propose to deal with and decide the legality and correctness of the said order as on account of the delay and laches on the part of the Petitioner to file this writ petition we do not feel disposed to issue a writ of certiorari to quash the said order on any account at this point of time, thereby setting at naught another legal order passed in the meantime in favour of the Petitioner and his rights accruing therefrom.

3. After two months of the dismissal of the above mentioned Miscellaneous Case by the Tribunal on 1-4-1970, Opp. party No. 1 filed an application dated 9-6-1970 before the Labour Court u/s 33-C of the Act for recovery of his arrear pay and other dues from the Petitioner, which accrued due to him 011 account of the fact that the discharge order passed against him did not receive approval of the Tribunal. That matter was registered in the Labour Court as Miscellaneous Case No. 61 of 1970. After five months thereof the Labour Court ordered that Opp. party No. 1 was entitled to recover Rs. 2, 739.00 from the Petitioner. Thereafter the Petitioner, instead of taking any steps to set aside the aforesaid order of the Labour Court, filed this writ petition on 7-12-1970 praying for quashing the order dated 1-4-1970 passed by the Tribunal. After the passing of the order dated 1-4-1970 the Petitioner did not approach this Court within a reasonable time for setting aside the said order. He could also have approached the Supreme Court under Article 136 of the Constitution within 90 days of the passing of the said order (Article 133 Limitation Act) to grant him special leave to appeal against the said order of the Tribunal. For filing a writ petition in the High Court no time limit of course is prescribed under the law, but the time prescribed under Article 133 of the Limitation Act may serve as a guide while considering a question of delay in filing such a petition in this Court.

4. The Petitioner certainly knew that after the dismissal of the aforesaid Miscellaneous Case by the Tribunal, the Opp. party No. 1 approached the Labour Court with a petition u/s 33-C of the Act on the basis that the Tribunal did not approve the order of discharge passed against him. He made that move after two months of the dismissal of the said Miscellaneous Case by the Tribunal. That case remained pending for about 5 months in the Labour Court. There is nothing on record to show that the Petitioner took any step to stay the said proceeding before the Labour Court. Only after the final order determining the claims of the Opp. party No. 1 was passed by the Labour Court and Opp. party No. 1 thereby acquired the legal right to recover the aforesaid amount from the Petitioner, this writ petition was filed in this Court without taking any legal step to get the said order of the Labour Court set aside. The Petitioner has not given any explanation for the aforesaid inaction, delay and laches on its part whereby it consciously allowed things to drift thereby allowing valuable rights to accrue in favour of the

Opp. party No. 1.

Considering all that has been stated above we do not deem it to be just and proper to set aside or interfere with the impugned order of the Tribunal at this point of time. Thus on account of the aforesaid latches and unexplained delay of the Petitioner this writ petition is liable to be rejected.

The writ petition is accordingly dismissed. Hearing fee Rs. 100/.

G.K. Misra, C. J.

5. I agree