
(2005) 02 OHC CK 0055

In the Orissa High Court

Case No : Original Jurisdiction Case No. 3521 of 2002

Sri Purna Ch. Dehury and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 08-02-2005

Acts Referred:

Citation : (2005) 99 CLT 642 : (2005) 106 FLR 32

Hon'ble Judges : N. Prusty, J; I.M. Quddusi, J

Bench : Division Bench

Advocate : Sidheswar Mallick, S.M. Dixit and R.N. Acharya, for the Appellant;
Additional Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

I.M. Quddusi, J.—The present Writ Application has been filed against the interlocutory Order dated 18.3.2002 passed by the Orissa Administrative Tribunal, Bhubaneswar in O.A. No. 367 of 2002 refusing the petitioner's prayer for stay of the impugned order of termination of the petitioners from service. Further the petitioners have prayed for allowing them to get the scale of pay of Rs. 300-410/- with effect from 1.1.1974, Rs. 840-1240/- with effect from 1.1.1985, Rs. 950-1500/- with effect from 1.5.1989 and Rs. 3050-4500/- with effect from 1.1.1996 and not to retrench them till implementation of the award of the industrial Tribunal in I.D. Case No. 20 of 1988.

2. Since the original application filed by the petitioners against the impugned order of termination is still pending before the Tribunal and the Tribunal vide interim order though did not grant relief sought for by the petitioners, i.e., stay of termination order; it directed the respondents (opposite parties)-State that if the petitioners are retrenched and slots from which they are removed, should not be filled up during the pendency of the O.A. If there is generation of additional work and availability of more funds necessitating those slots being utilised, the petitioners should be taken back to service and they may be redeployed to other new and on-going projects where work and funds are available, strictly in

accordance with their placements in the central seniority list which the Department has been directed to prepare by Order dated 15.20.2001 passed in O.A. No. 2040(C) of 2001 and batch passed by the Cuttack Bench.

3. This Court is not inclined to interfere in the said matter at this stage. Let the Tribunal take a decision in the matter. With regard to the second prayer, it is to be noticed that earlier the petitioners had filed I.D. Case No. 20 of 1988 before the Industrial Tribunal, Orissa, Bhubaneswar in which award was made by the said Tribunal on 27.11.1995 holding that the "Riggers" engaged in the project discharge the same duty as the "Riggers" engaged by the Corporation and further held as follows :

(a) The "Riggers" richly deserve parity with the Operators in the matter of pay and emoluments.

(b) The "Riggers" are entitled to be placed in the pay scale of Rs. 300-410/- with effect from 1.1.1974 and the pay scale of Rs. 800-1240/- with effect from 1.1.1985.

(c) While computing the arrears, Management shall deduct the amount already paid to the "Riggers" and in future it should be ensured that at least parity is maintained between the "Riggers" and the Operators."

4. Against the aforesaid award passed by the Industrial Tribunal, State filed a Writ Application, i.e., O.J.C. No. 11786 of 1996 which was dismissed vide Order dated 20.12.2001. Thereafter petition for Special Leave was moved by the State before the Hon'ble Apex Court and the same was registered as SLP (Civil) No. 624 of 2004 which was also dismissed vide Order dated 30.1.2004 on the ground of delay. Hence the award has reached finality and it is the duty of the State to implement the same without any further delay. Therefore, considering the facts and circumstances of the case, we are of the view that the petitioners are entitled to get the second relief duly and, therefore, this Writ Application is disposed of with the direction to the opposite parties more particularly, O.P. No. 3 to implement the above mentioned award of the Industrial Tribunal and pay the arrears of wages/Salary to the petitioners in the pay scale of Rs. 300-410/- with effect from 1.1.1974 and the pay scale of Rs. 800-1240/- with effect from 1.1.1985 and further according to the revision of pay scales if any till the date of termination of the petitioners from service within a period of two months from the date of receipt of the copy of this order.

5. Further payment of salary in accordance with the revised pay scale still depends upon the decision of the O.A. by the Orissa Administrative Tribunal where the impugned order of termination is under challenge, meaning thereby that in case the termination order is set aside by the Tribunal, the petitioners will be entitled to get the revised scale as mentioned above.

6. The Writ Application is accordingly disposed of. Consequently the Misc. Case No. 3589 of 2002 also stands disposed of.

7. Requisites for communication of the order to Opposite Party No. 3 along with a copy of the Writ Application be filed by Friday.

N. Pursty, J.

7. I agree.