



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.1209 of 2025

State of Odisha & Ors.

....

Appellants

Mr. S.B. Mohanty, AGA

-versus-

Bansidhar Sahoo & Anr.

....

Respondents

Mr. M.K. Khuntia, Advocate
for Respondent No.1

CORAM:

JUSTICE KRISHNA SHRIPAD DIXIT

JUSTICE CHITTARANJAN DASH

ORDER

26.02.2026

Order No.

04. The Management of Dhamara Fisheries Harbour, representing through its Conservator has preferred this Intra-Court Appeal challenging a Single Judge's order dated 14.03.2023, passed in W.P.(C). No.6504 of 2023, wherein the learned Single Judge declined to interfere with the award passed by the labour Court, Bhubaneswar holding the termination of the services of the Respondents, as neither legal nor justified directing their reinstatement in service.

2. The background facts of the case are that the Respondents, claiming to have been engaged under the Fisheries Harbour at Dhamara, raised an industrial dispute alleging illegal termination of their services. The said dispute, upon failure of conciliation, was taken up for adjudication and culminated in an award of the Labour Court, Bhubaneswar holding the termination to be neither legal nor justified and directing reinstatement of the workman.



The said award having been assailed by the State in W.P.(C) No.6504 of 2023, the learned Single Judge by order dated 14.03.2023 declined to interfere with the same, giving rise to the present intra-court appeal. The appropriate Government had referred the dispute to the Labour Court, Bhubaneswar for adjudication on the following term of reference:-

“Whether the action of the management of the Assistant Conservator, Dhamara Fishing Harbour, Dhamara in terminating the services of Sri Bansidhar Sahoo, Mate, with effect from 16.06.1995 is legal or justified? if not, what relief he is entitled to?”

3. Both the Appellant/Management as well as the Respondents (workmen), laid their respective evidence before the learned Labour Court, Bhubaneswar who having adjudicated the case found the action of the management to be illegal and unjustified and directed for reinstatement of the Respondents.

4. Leaving aside the other grounds urged in the appeal, learned Additional Government Advocate, while pressing the matter, confined his submission to a limited question, namely, whether the ss are entitled to back wages upon reinstatement in the absence of any specific direction by the learned Labour Court to that effect. In other words, the contention advanced is whether grant of back wages follows automatically as a consequence of an order of reinstatement.

Per contra, learned counsel appearing for the Respondents No.1 submits that once the termination has been held to be illegal and reinstatement has been directed, denial of back wages would



defeat the very purpose of such relief. It is contended that the workman having been kept out of service for no fault of his own cannot be deprived of the consequential monetary benefits.

5. It needs to be borne in mind that the challenge before the learned Single Judge to the award of the Labour Court was essentially examined within the limited parameters of supervisory jurisdiction under Article 227 of the Constitution of India. The settled position of law is that the High Court, while exercising such jurisdiction, does not sit in appeal over the findings of fact recorded by the Tribunal and interference is warranted only where there exists patent perversity, manifest illegality or jurisdictional error apparent on the face of the record.

6. Admittedly, the learned Single Judge has not adverted to this aspect, as the said issue was never raised before him. A perusal of the award of the learned Labour Court reveals that while holding the action of the Management in terminating the services of the Respondents-workmen to be illegal and unjustified, it directed the reinstatement; however, no specific direction was issued with regard to payment of back wages. The said award, though affirmed by the learned Single Judge, has not yet been implemented by the Appellant–Management in its true spirit. In the meantime, it is submitted that the Respondents-workmen has put in nearly 38 years of service. In this regard, reference may be made to the decision of the Hon’ble Supreme Court in ***Dharam Singh & Ors. vs. State of Uttar Pradesh & Anr.***, 2025 INSC 998 wherein, relying upon the earlier decisions in ***Jaggo vs. Union of India***, 2024 SCC OnLine SC 3826,



Shripal & another vs. Nagar Nigam, Ghaziabad, 2025 SCC OnLine SC 221, State of Karnataka vs. Umadevi (3), (2006) 4

SCC 1, the Court observed as follows:—

17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. Moreover, it must necessarily be noted that “ad-hocism” thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If “constraint” is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.

19. Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and the material indicating vacancies and comparator regularisations, we issue the following directions:

i. **Regularization and creation of Supernumerary posts:** All appellants shall stand regularized with effect from 24.04.2002, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts



for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission) shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. On regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.

ii. **Financial consequences and arrears:** Each appellant shall be paid as arrears the full difference between (a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and (b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization /retirement/death, as the case may be. Amounts already paid under previous interim directions shall be so adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.

iii. **Retired appellants:** Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgement.

iv. **Deceased appellants:** In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated consistently with clause (i), within three months of this Judgement.

v. **Compliance affidavit:** The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of



compliance before this Court within four months of this Judgement.

7. Regard being had to the aforesaid decision and keeping in view the reasons assigned by the learned Single Judge in the order dated 14.03.2023 impugned herein, fortified by the ratio of the decisions in **Jaggo** (supra), **Dharam Singh** (supra), **Bhola Nath vs. The State of Jharkhand & others**, 2026 INSC 99 and **State of Karnataka vs. M.L. Kesari**, (2010) 9 SCC 247, we do not feel it necessary to further delve into the question as to whether the Respondents are entitled to back wages. The reason is that the award passed by the learned Labour Court, though assailed by the Appellants before this Court in W.P.(C) No. 6504 of 2023, did not find favour with the learned Single Judge and the same was not carried further in challenge thereafter, thereby attaining finality.

8. Further, the Appellants had never questioned the aspect of back wages before the learned Single Judge either in W.P.(C) No. 6504 of 2023 or in the proceedings culminating in the impugned order, and therefore cannot be permitted to raise the said issue at this stage in the present intra-court appeal merely to avoid implementation of the award. Consequently, the appeal does not merit consideration.

9. Accordingly, the writ appeal stands dismissed.

10. The Appellants are directed to comply with the award of the learned Labour Court in its true letter and spirit. For the purpose of pensionary and other retiral benefits, the services of the Respondents shall be reckoned from the date of their initial appointment and he shall be treated as a regular employee with



the appropriate scale of pay and all consequential service benefits from the date of the award.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

Bijay/Sarbani