

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10029 OF 2014
(Arising out of S.L.P. (C) No.13521 of 2012)

Chairman-cum-Managing Director,
Industrial Development Corporation
of Orissa Ltd.

Appellant(s)

Versus

Dilip Kumar Sahoo & Others

Respondent(s)

O R D E R

Leave granted.

The present appeal, by special leave, is directed against the judgement and order dated 15th April, 2011, passed by the Division Bench of the High Court of Orissa at Cuttack, in W.P.(C) No.5888 of 2011, whereby the High Court has directed as follows:

"If the re-employment or any alternative relief cannot be granted by him, then the Labour Officer, Dhenkanal who is the Conciliation Officer should have admitted the matter in the conciliation proceedings and referred the dispute with regard to the justification of the closure and entitlement of re-employment or alternative substantial financial compensation and proceeded with the matter under Section 12(3) of the I.D. Act,

which has not been done. Therefore, both the orders dated 10.10.2008 and 08.11.2010 are liable to be quashed. Accordingly, quashed. The District Labour Officer, Dhenkanal, is directed to hold conciliation meeting calling upon both the parties. If the matter is not settled between the parties, he will submit a failure report to the State Government to exercise its power under Section 10 of the I.D. Act to make an order of reference to either the jurisdictional Industrial Tribunal or Labour Court for adjudication of the existing industrial dispute between the parties."

It is submitted by Mr. L. Nageswara Rao, learned Additional Solicitor General appearing for the appellant-Corporation that the High Court has erroneously interpreted the earlier judgements passed in W.P.(C) No.14492 of 2006 and O.J.C. No.16610 of 1998. That apart, submits Mr. Rao the respondents-employees had accepted the closure compensation and, presently, the company, namely, S.N. Corporation Ltd., is not in existence and, therefore, the directions given by the High Court are non-executable.

Ms. Nidhi, learned counsel appearing for the respondents, submitted that the appellant-Corporation had floated a scheme to give alternative employment to the employees of certain companies in which it had share and, therefore, the appellant-Corporation cannot leave the employees in the lurch. It is also urged by them that the said claim was accepted by Appellate Authority for Industrial & Financial Corporation and, therefore, the appellant-Corporation is duty bound to honour its own scheme. Learned counsel for the respondents has further

submitted that the acceptance of closure compensation will not act as an estoppel against the workmen to put forth their claim, as the compensation was accepted under protest.

To appreciate the rival submissions raised at the Bar, we have carefully scrutinized the order passed by the High Court and we find that the High Court has not really addressed to these aspects. In our considered opinion, the question of delay, acceptance of compensation, the real impact of earlier orders and the applicability of the scheme, as submitted by the learned counsel for the respondents, should have been appositely dealt with by the High Court. Therefore, we are compelled to set aside the order impugned in the appeal.

Mr. Rao has submitted that the scheme at no point of time is formed by the appellant. Be that as it may, all the aspects are kept open to be adjudicated by the High Court.

In the result, the appeal is allowed, the order passed by the High Court is set aside and the matter is remanded to the High Court for fresh adjudication, keeping in view the observations made herein-above.

The High Court is requested to dispose of the writ petition by the end of March, 2015.

There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(Uday Umesh Lalit)

New Delhi;
November 03, 2014.

ITEM NO.5

COURT NO.5

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.13521/2012

(Arising out of impugned final judgment and order dated 15/04/2011 in WP No. 5888/2011 passed by the High Court Of Orissa at Cuttack)

CHAIRMAN-CUM-MAN.DIR., IDC OF ORISSA LTD.

Petitioner(s)

VERSUS

DILIP KUMAR SAHOO & ORS.

Respondent(s)

(With office report)

Date : 03/11/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. L. Nageswara Rao, A.S.G.
Mr. Shibashish Misra, AOR

For Respondent(s) Mr. Kedar Nath Tripathy, AOR
Mr. Biswajit Kumar Patra, Adv.

Mrs. Kirti Renu Mishra, AOR
Ms. Apurva Upamnyu, Adv

Mr. V. K. Sidharthan, AOR

Ms. Nidhi, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Chetan Kumar)
Court Master

(H.S. Parashar)
Court Master

(Signed order is placed on the file)