

Orissa Irrigators Union Vs. State of Orissa and ors.

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Court : Orissa

Decided On : Jun-29-2005

Reported in : 100(2005)CLT370; [2005(107)FLR975]; (2006)ILLJ494Ori

Judge : P.K. Mohanty and ;A.S. Naidu, JJ.

Acts : [Industrial Disputes Act, 1947](#) - Sections 12(5) and 25

Appeal No. : O.J.C. No. 1650 of 1997

Appellant : Orissa Irrigators Union

Respondent : State of Orissa and ors.

Advocate for Def. : K.P. Nand, ;N. Paikray, ;R.P. Kar and ;A.N. Roy, Advs. for O.P. No. 2, ;N.C. Panigrahi, (AM) (ASC) for O.P. Nos. 1, 3 and 4

Advocate for Pet/Ap. : Y. Das, ;N.C. Mohanty, ;D.K. Dey, ;R. Sahu, ;B.P. Mohapatra, ;A.K. Hota, ;D. Rath and ;S.K. Panda, Advs.

Disposition : Petition dismissed

Judgement :

P. K. Mohanty, J.

1. The petitioner, Orissa Irrigators Union has approached this Court with the following prayer:

'Under the circumstances, it is prayed that the Hon'ble Court be pleased to :

Issue Rule Nisi calling upon the opp. parties to show cause as to why the order of the opp. parties retrenching the service of the Irrigators shall not be quashed and if the opp. parties fail to show cause or insufficient cause make the said Rule be absolute :

And further in the alternate direct the Labour Commissioner Orissa, Bhubaneswar, the appropriate Govt. under the Industrial Disputes Act to conduct the inquiry whether the action taken by the Commissioner CADA by retrenching irrigators under Section 25-F is legal or justified and the CADA organization is a seasonal one or not:

That the Hon'ble Court be further pleased to pass appropriate order quashing the order of refusal in Annexure-7 and further direct the opp. party No. 5 to make the reference on the basis of the demands within the time as specified by this Hon'ble Court for their proper adjudication under the Industrial Disputes Act.

And further pass appropriate order/order(s) and/ or; direction/directions) as this Hon'ble Court thinks fit and proper;

And admit and allow the Writ Application with cost.'

2. It appears that earlier the present petitioner-Orissa Irrigators Union had approached this Court in O.J.C. No. 7141 of 1996 claiming regularization of the services of the Irrigators with usual pay. Some of the individual irrigators also had filed Writ Petition bearing numbers O.J.C. Nos. 5185, 5530, 5584, 6927 and 6989 of 1996. But the Court on consideration had dismissed the Writ Petitions with the finding that the claim of the petitioners for regularization cannot be entertained. The Court also found that the job required is seasonal only as per the latest decision of the Government and the petitioners having been engaged purely on temporary basis, a direction cannot be given to the opposite parties for regularization of their services.

3. The present Writ Petitioner calls in question the order passed by the Government in Labour and Employment Department vide Office Memorandum No.

II/1(B)-173/96-5404/LE, dated 13.5.1997 rejecting the prayer of the petitioner to refer the dispute for adjudication under the Sub-section (5) of Section 12 of the [Industrial Disputes Act, 1947](#). On going through the impugned order, we find that the Government was of the view that the matter with regard to withdrawal of the retrenchment order issued by the Management and regularization of the services of the irrigators were already concluded by the decision of this Court in O.J.C. No. 7141 of 1996 and others and, as such, the same need not be referred to for adjudication. The petitioner sought to raise a dispute with regard to preparation of State-level seniority list of all irrigators, payment of E.P.F. contribution by the management, payment of bonus to the irrigators, payment of double wages to the irrigators for working on national and festive holidays, preparation of service conditions for the irrigators and introduction of GIS and medical reimbursement. The Government on consideration found that these are not matters coming under the purview of the Industrial Disputes Act so as to be referred to for adjudication under Sub-section (5) of Section 12 of the Industrial Disputes Act. As regards the claim of the petitioner for payment of daily wages to the irrigators as skilled labour and supply of uniform to all the irrigators the Government found that the irrigators could not substantiate their claim on these demands.

4. Undisputedly, the petitioner's prayer for a direction to regularize the services of the irrigators and that service of an irrigator is not seasonal in nature was considered and rejected by this Court in O.J.C. No. 7141 of 1996. It appears that as against the dismissal order, the petitioner filed Civil Review Petition No. 385 of 1996 for review of the judgment dated 10.9.1996 but after hearing the said review petition was rejected by order dated 29.1.1997. Petitioner's prayer for referring the dispute on due consideration has been rejected by the Government by order dated 13.5.1997.

5. In such view of the matter, we do not find any merit in the Writ Petition to interfere with the order dated 13.5.1997, Annexure 7. Accordingly, the Writ Petition is dismissed.

A.S. Naidu, J.

6. I agree.

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