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ORISSA HIGH COURT ON DEFINITION OF WORKMAN

A. Introduction

Orissa High Court (**HC**), in *Express Publications* case,¹ held that a workman working in supervisory capacity would be entitled to retrenchment benefits if their wages was below the prescribed threshold.

B. Brief Facts

1. Lenin Kumar Ray (**Ray**) was appointed as a Junior Engineer at Express Publications (**EP**) in 1997, with a one-year probation period.
2. He was promoted as Assistant Engineer (E&C), was drawing a monthly wage of Rs. 6008.79 and had two workers reporting to him.
3. He was terminated in 2003, after being paid one month's salary in lieu of notice pay.
4. Ray challenged his termination before the Bhubaneswar Labour Court (**LC**). The LC held that his termination was violative of Section 25F of the Industrial Disputes Act, 1947 (**Act**) as he is a workman² under the Act. It ordered his reinstatement with a compensation of Rs 75,000 in lieu of back wages.
5. In 2011, the HC stayed the LC's order and passed an interim order, directing EP to pay Ray wages under Section 17B of the Act.³

C. Judgment & Reasoning of HC

HC set aside the reinstatement and compensation order of the LC and made the following observations:

- a. EP was able to prove after examination of witness that Ray had two workers reporting to him. The HC placed reliance on the definition of workman under the Act and held that he was a workman since he earned less than Rs 10,000 per month though he was a supervisor. The HC remarked, "*The main part of the definition 'workman' under Section 2(s) of the ID Act includes a person working in a supervisory capacity. It is only where the wages payable to such persons exceeds Rs. 10,000/- per month that such person would fall outside the ambit of definition of 'workman'.*"⁴
- b. EP was not required to give reasons for his termination and it was in compliance with Section 25F of the Act and terms of his offer letter since it paid him one month's salary in lieu of notice period.

¹*Express Publications (Madurai) Ltd. vs. Lenin Kumar Ray* (04.04.2022 - ORIHC): MANU/OR/0289/2022.

² Section 2(s) of the Act.

³ Payment of full wages to workman pending proceedings in higher courts.

⁴ Paragraph 12 of the Judgement.

D. Observation

Although the HC held that the termination of Ray was in compliance with Section 25F of the Act, the judgement is silent as to whether the other two conditions precedent, i.e., retrenchment compensation and filing of notice with the appropriate authorities were fulfilled by EP.

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