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COURT FEES EXEMPTES
BY NOTIFICATION NO. 9960/D-2870/XXI-
B/C.G./05 AS SPECIFIED IN SCHEDULE
I&II OF THE COURT FEES ACT 1870

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

WRIT PETITION (L) NO. 194 /2013

PETITIONERS:

1. ✓ State of Chhattisgarh,
Through: the Secretary,
Department of Water
Resources, Mahanadi
Bhawan, Mantralaya
Naya Raipur (C.G.)

(The petitioner no. 1 was not a party before the learned Labour Court but has been impleaded as petitioner no. 1 in the instant petition as the proper course is to implead the State Government through the Secretary of the concerned department).

2. ✓ Executive Engineer, Hasdeo Nahar Jal Prabandh Sambhag, Janjgir District Janjgir-Champa (C.G.)
3. ✓ Sub Divisional Officer, Hasdeo Left Bank Canal, Sub Division No. 1, Seoni, District Janjgir-Champa (CG)

VERSUS

RESPONDENT :

Bharat Lal Marar,
S/o Firat Ram Marar,
aged about 35 years, Caste-
Marar, R/o Bhilai Khurd,
P.S. Korba, Tahsil and
District Korba (CG)

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

1. **PETICULARS OF THE PETITIONER:-**

As mentioned in the cause title.

2. **PETICULARS OF THE RESPONDENTS:-**

As mentioned in the cause title

**HIGH COURT OF CHHATTISGARH : BILASPUR****W.P. (L) No.192 of 2013****PETITIONERS**

State of Chhattisgarh & others

Versus

RESPONDENT

Panchram Marar

W.P. (L) No.193 of 2013**PETITIONER**

State of Chhattisgarh & others

Versus

RESPONDENTS

Arath Ram Marar

And**W.P. (L) No.194 of 2013****PETITIONER**

State of Chhattisgarh & others

Versus

RESPONDENTS

Bharat Lal Marar

Single Bench : Hon'ble Shri Justice Prashant Kumar Mishra

Present :- Shri Y.S. Thakur, Dy. Adv. General for the State/petitioners
None for the respondents.

ORAL ORDER(Passed on this 1st day of January, 2014)

Heard learned counsel for the parties.

1. Challenge in these petitions is to the legality and validity of the award dated 09.04.2013, passed by the learned Labour Court, Korba, whereby the learned Labour Court has directed for reinstatement of the respondent workmen in the service.
2. Learned counsel appearing for the petitioner/employer would submit that in the year 1989 the services of the respondent workmen were taken on daily wages basis, however, on account of non-requirement of the services of the respondent workmen they were removed from services in the year 1995. Being aggrieved the respondent workmen raised industrial dispute under the provisions of the Industrial Disputes Act, 1947 (for short "the Act, 1947"),



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which was referred to the Labour Court for adjudication of the said dispute. In the said matter the petitioner/employer submitted reply. The Labour Court while passing the impugned award has not at all appreciated the facts and circumstances of the case in its true perspective. In fact, the respondent workmen were not in service against any sanctioned post and as such the provisions of the Act, 1947 would not be applicable to the facts of the present cases. Learned counsel would lastly submit that at the most, instead of reinstatement, the respondent workmen are entitled for some compensation.

3. No one appears for the respondent-workmen despite service of notice. On the previous date of hearing Shri Sanjay Patel, learned Advocate appeared for the respondent, however, he has not filed Vakalatnama and today no other advocate is appearing for the respondent workmen.
4. The identical issue has already been considered and decided by the learned single Judge of this Court in *State of Chhattisgarh & Another v. Dhaniram*¹ and other connected writ petitions and instead of reinstatement, monetary compensation has been awarded. The said decision has been confirmed by the Division Bench of this Court in *Brij Nandan Chandra v. State of Chhattisgarh & Another*² & other connected writ appeals and even the same has also been confirmed by the Supreme Court in *Brij Nandan Chandra v. State of Chhattisgarh & Anr.*³.

¹ WP (L) No.3034 of 2009 (decided on 2-2-2011)

² WA No.50 of 2011 (decided on 17-2-2011)

³ Special Leave to Appeal Civil No.15761 of 2011 (decided on 5-7-2011)

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5. The Supreme Court in *Bharat Sanchar Nigam Limited v. Man Singh*⁴, observed as under :

"4. This Court in a catena of decisions has clearly laid down that although an order of retrenchment passed in violation of Section 25-F of the Industrial Disputes Act may be set aside but an award of reinstatement should not be passed. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.

5. In view of the aforementioned legal position and the fact that the respondent workmen were engaged as 'daily wagers' and they had merely worked for more than 240 days, in our considered view, relief of reinstatement cannot be said to be justified and instead, monetary compensation would meet the ends of justice.

6. Accordingly, the impugned judgment passed by the High Court as also the award dated 27-5-2005 passed by the Labour Court are set aside. We direct the appellant, Bharat Sanchar Nigam Ltd. to pay Rs.2 lakhs to each of the respondents in full and final settlement of their claim, within six weeks from today. In case the payment is not made within the aforementioned stipulated time, the amount shall carry interest at the rate of 12% per annum."

6. Similar view has been taken by the Supreme Court in *Assistant Engineer, Rajasthan Development Corporation and Another v. Gitam Singh*⁵.

7. In view of the above facts and circumstances of the case and applying the well settled principles of law to the facts of the present case, instead of reinstatement, monetary compensation would sub-serve the ends of justice. Thus, each of the respondent-workmen is entitled to a sum of

⁴ (2012) 1 SCC 558

⁵ (2013) 5 SCC 136

Rs.75,000/- as compensation. Such payment shall be made within a period of four weeks from the date the respondent-workmen submit a representation along with a copy of this order, failing which the same shall carry interest at the rate of 9% per annum.

8. As an upshot, all the writ petitions are allowed to the extent indicated above. No order as to costs.

Ashu/
Gowri

Sd/-
Prashant Kumar Mishra
Judge