

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(227) No. 7183 of 2008**

Balwant Singh S/o Jaggi Singh, R/o Village Dharmutola, Post Salhetola,
Police Station Gaindatola, Tahsil and Distt. Rajnandgaon (C.G.)

---- Petitioner**Versus**

1. Divisional Forest Officer, Forest Division (General), Rajnandgaon, Distt. Rajnandgaon (C.G.)
2. Presiding Officer Labour Court Rajnandgaon (CG)

---- Respondents

For Petitioner : Shri C. R. Sahu, Advocate
For Respondent/State: Shri Adhiraj Surana, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14/08/2015**

The petitioner through the instant writ petition has challenged the award dated 26.05.2008 passed by the Labour Court, Rajnandgaon in Case No. 87/ID Act/2007/Reference.

2. The petitioner had raised a dispute under the provisions of Industrial Dispute Act claiming that he was continuously working in the post of Barrier Guard at Banjari Barrier Bagnadi Range, Rajnandgaon from 1993 till 18th January, 2000. According to the petitioner, his services were illegally terminated by respondent No.1 w.e.f. 01.02.2000 without compliance of the provisions of Industrial Dispute Act. According to the petitioner, there was no allegation of misconduct or unsatisfactory service alleged against him yet his services were illegally and arbitrarily removed.

3. The matter was referred to the Labour Court wherein a reference was made by the State Government to the Labour Court to decide as to whether the termination of the services of the petitioner was proper and legal and if not, what relief/direction can be granted in this regard to the respondent employer.

4. The Labour Court, after completion of the pleadings and recording of the evidences vide impugned award dated 26.05.2008 held that since the workman petitioner has not been able to establish the fact that he has in fact continuously worked for more than 240 days in a calendar year by leading cogent evidence, his engagement with respondent no.1 continuously from 1993 to 2000 itself has not been proved. On the contrary, the Labour Court found that the respondent State had produced a document dated 19.01.2000 Ex. P-1 before the Court below wherein it was reflected that the services of the petitioner would stand discontinued after providing him one month notice and that the petitioner was given one month notice before discontinuing his services. Even the petitioner admits of having received Ex. P-1 i.e. one months notice prior to his removal. The Court below further held that since the status of the petitioner was that of a daily wage worker engaged purely on the availability of the work, he would not be entitled for any other relief under the provisions of Industrial Dispute Act and accordingly, dismissed the claim of the petitioner.

5. It is this award dated 26.05.2008 which is under challenge in the instant writ petition.

6. Taking into consideration the over all facts and circumstances of the case and also considering the categorical finding of the Labour Court, this Court is not inclined to interfere with the finding of fact particularly when the petitioner has failed to produce any evidence before the Court below to substantiate his contention of having worked continuously with respondent No.1 from 1993 to 2000. Even while arguing in the instant writ petition, counsel for the Petitioner has not been from the records able to substantiate the fact that the finding arrived at by the Labour Court is firstly contrary to the evidence and secondly a perverse finding. The petitioner also has not been able to show any substantive right being accrued in his favour except for the

fact that occasionally he had been appointed as a daily wage worker. He has also not been able to show as to how the provisions of Chapter 5 of the Industrial Dispute Act would have been applicable in his case.

7. The issue raised in the instant petition is by now well settled by a catena of decisions of the Supreme Court starting from the case of Secretary, State of Karnataka and Others v. Umadevi (3) and Others reported in (2006) 4 SCC 1 and subsequently decisions.

8. Thus, the petition being totally devoid of merit is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**