

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 53 of 2012**

1. State Of Chhattisgarh Through The Divisional Forest Officer, Forest Division Durg (C.G.)

---- Petitioner**Versus**

1. Ramesh Kumar Deshmukh S/o Shri Ramlal Deshmukh Aged About 45 Years R/o Village Birejhar Teh. & District Durg (C.G.)
2. Chintaram Baghel S/o Shri Ledgu Ram Baghel Aged About 45 Years R/o Village Chandkhuri, Tahsil & District Durg (C.G.)

---- Respondent**And****WPL No. 38 Of 2012**

1. State Of Chhattisgarh Through The Executive Engineer, R. B. C., Water Resources Department, Hasdeo Barrage Management Division, Rampur, Korba, District Korba, Chhattisgarh
2. Sub Divisional Officer, R. B.C. Hasdeo Barrage, Water Resources Department, Water Management Sub Division No. 2, Tahsil Katghora, District Korba, Chhattisgarh Represented Through, Shri S. N. Singh, Aged About 55 Years, S/o Late Shri S. M. Singh, Presently Posted As Executive Engineer, Hasdeo Barrage Division, Korba, District Korba, Chhattisgarh And Officer In Charge Of The Case

---- Petitioner**Vs**

1. Rajeshwar Kumar Sahu S/o Bhaiya Ram Sahu, R/o Irrigation Colony, Old Labour Market, Near Madwarani Temple, Rampur, Korba, Tahsil And District Korba, Chhattisgarh

---- Respondent

And

WPL No. 55 Of 2012

1. State Of Chhattisgarh Through The Secretary, Department Of Water Resources, D. K. S. Bhawan, Mantralaya, 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. State Of Chhattisgarh, Through The Superintending Engineer, Arpa Project Division, Rampur, Korba, District Korba (C G)
3. State Of Chhattisgarh, Through The Executive Engineer, Hasdeo Canal Water Management Division, Janjgir, District Janjgir Champa (C G)

---- Petitioner

Vs

1. Dhansingh Yadav S/o Shri Visheshar Yadav, R/o Mahamandpur, Post Bargawan, Via Akaltara, District Bilaspur (C G)

---- Respondent

And

WPL No. 54 Of 2012

1. State Of Chhattisgarh Through The Divisional Forest Officer, Forest Division, Durg Chhattisgarh

---- Petitioner

Vs

1. Visheshwar S/o Bisau Through Shri Kriparam, Parshad, Nagar Panchayat Gurur Tahsil Balod District Durg Chhattisgarh

---- Respondent

And

WPL No. 56 Of 2012

1. State Of Chhattisgarh Through The Secretary, Department Of Water Resources, D. K. S. Bhawan, Mantralaya, Raipur Chhattisgarh (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. The Executive Engineer, Hasdeo Bango Canal Water Management Division, Janjgir Champa Chhattisgarh

---- Petitioner**Vs**

1. Dilharan Bareth S/o Ranjan Bareth, R/o Village Khod, Post Akaltara, Distt. Janjgir Champa Chhattisgarh

---- Respondent**And****WPL No. 57 Of 2012**

1. State Of Chhattisgarh Through The Secretary, Department Of Water Resources, D. K. S. Bhawan, Mantralaya, Raipur Chhattisgarh (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. The Executive Engineer, Hasdeo Bango Canal Water Management Division, Janjgir Champa Chhattisgarh

---- Petitioner**Vs**

1. Bhansingh (Mansingh) S/o Hagaru, R/o Village And Post Kapan, Distt. Janjgir Champa Chhattisgarh (Vide Order Dated 08/02/2011, The Learned Labour Court, Bilaspur Has Directed To Read The Name Of Respondent As Bhansingh In Place Of Mansingh)

---- Respondent

And

WPL No. 61 Of 2012

1. State Of Chhattisgarh Through The Executive Engineer Hasdeo Barrage, Water Resources Division, Rampur, Korba Tehsil & District Korba Chhattisgarh
2. Sub Divisional Officer Hasdeo Left Side Canal Division No. 3, Barpali District Korba Chhattisgarh

---- Petitioner

Vs

1. Dhaniram S/o Shri Laxman, Aged About 45 Years Caste Kalar R/o Barpali Tahsil Kartala District Korba Chhattisgarh

---- Respondent

And

WPL No. 65 Of 2012

1. State Of Chhattisgarh Through The Executive Engineer Hasdeo Barrage, Water Resources Division, Rampur, Korba Tehsil & District Korba Chhattisgarh
2. Sub Divisional Officer Division No. 2 (153) Hasdeo Left Side Canal Water Resource Sub Division, Rampur Tah. & District Korba Chhattisgarh

---- Petitioner

Vs

1. Satish Kumar Pathak S/o Shri G. P. Pathak , Aged About 40 Years R/o Irrigation Colony, Darri, Teh. & District Korba Chhattisgarh

---- Respondent

And

WPL No. 64 Of 2012

1. State Of Chhattisgarh Through The Executive Engineer Hasdeo Barrage, Water Resources Division, Rampur, District Korba (Chhattisgarh)
2. Sub Divisional Officer Hasdeo R. B. C., Water Resource Sub Division No. 1, Pantora District Janjgir-Champa (Chhattisgarh)

---- Petitioner

Vs

1. Ramayan Prasad Rajwade S/o Shri Vishal Prasad Aged About 45 Years R/o Kanki Tahsil Kartala District Korba (C.G.)

---- Respondent

And

WPL No. 62 Of 2012

1. State Of Chhattisgarh Through The Executive Engineer Hasdeo Barrage, Water Resources Division, Rampur, Korba Tehsil & District Korba (Chhattisgarh)
2. Sub Divisional Officer Hasdeo Left Side Canal Division No.3, Barpali District Korba (Chhattisgarh)

---- Petitioner

Vs

1. Sandeep Kumar S/o Shri Ramesh Prasad Aged About 40 Years Caste Brahmin, R/o Barpali Tahsil Kartala Distt. Korba (C.G.)

---- Respondent

And

WPL No. 95 Of 2015

1. State Of Chhattisgarh Through The Secretary, Department Of Water Resources Mahandi Bhawan Mantralaya, Naya Raipur Chhattisgarh (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. The Research Officer Quality Control Unit, Sakti District Janjgir Champa Chhattisgarh

---- Petitioner

Vs

1. Garjan Singh Bareth S/o Bhukhram Bareth R/o Village Kapan, P.S. And Tahsil Akaltara District Janjgir Champa Chhattisgarh
2. The Labour Court Janjgir Champa, District Janjgir Champa Chhattisgarh

---- Respondent

WPL No. 66 of 2012

1. State Of Chhattisgarh Through The Executive Engineer Hasdeo Barrage, Water Resources Division, Rampur, Korba Tehsil & District Korba (C.G.)
2. Sub Divisional Officer Hasdeo Left Side Canal Division No. 3, Barpali District Korba (C.G.)

---- Petitioner

Versus

1. Birichhlal S/o Late Shri Itwari Aged About 38 Years R/o Barpali Tehsil Kartala District Korba (C.G.)

---- Respondent

And

WPL No. 67 Of 2012

1. State Of Chhattisgarh Through, The Secretary, Department Of Water Resources, D. K. S. Bhawan, Mantralaya Raipur (Chhattisgarh), (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. Karyapalan Abhiyanta, Hasdeo Nahar Jal Prabandh Sambhag Janjgir, Tahsil Janjgir, District Janjgir - Champa (C G)

---- Petitioner

Vs

1. Ramsai Sahu S/o Hajarilal Sahu Aged About 45 Years Ex. Amin, R/o Village Mudpar, Tahsil Nawagarh, Post Khisora, District Janjgir - Champa (C G)

---- Respondent

And

WPL No. 69 Of 2012

1. State Of Chhattisgarh Through, The Secretary, Department Of Water Resources, D.K.S. Bhawan, Mantralaya Raipur (Chhattisgarh), (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)

---- Petitioner

Vs

1. Maal Kumar Kashyap S/o Badri Prasad Kashyap, Ex. Labour, R/o Village Mudpar, Post Khisora Tahsil Nawagarh, District Janjgir - Champa (C G)

---- Respondent

And

WPL No. 71 Of 2012

1. State Of Chhattisgarh Through, The Secretary, Department Of Water Resources, D. K. S. Bhawan, Mantralaya Raipur (Chhattisgarh), (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. Mukhya Abhiyanta Jal Sansadhan Vibhag, Raipur (C G)
3. Karyapalan Abhiyanta, Hasdeo Nahar Jal Prabandh Sambhag, District Janjgir - Champa (C G)
4. Anuvibhagiya Adhikari, Minimata Bango Nahar, Upsambhag Kramank 17, Bilaspur (C G)

---- Petitioner

Vs

1. Manharan Das Manikpuri S/o Shivdas, R/o Surya Chowk, Near Hanuman Mandir, Chingrajpura, Bilaspur (C G)

---- Respondent

And

WPL No. 70 Of 2012

1. State Of Chhattisgarh Through: The Secretary, Department Of Water Resources, D.K.S. Bhawan, Mantralaya Raipur (Chhattisgarh) (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. Anuvibhagiya Adhikari, Hasdeo Sub Minor Upsambhag Kramank-4, Nawagarh, District Janjgir-Champa (Chhattisgarh).

---- Petitioner

Vs

1. Jeetram Sahu S/o Bedram Sahu, Aged About 45 Years Ex. Timekeeper, R/o Village Mudpar, Post Khisora (Semra), Tahsil Nawagarh, District Janjgir Champa (C G)

---- Respondent

And

WPL No. 72 Of 2012

1. State Of Chhattisgarh Through: The Secretary, Department Of Water Resources, D.K.S. Bhawan, Mantralaya Raipur (Chhattisgarh) (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. Anuvibhagiya Adhikari, Hasdeo Sub Minor Upsambhag Kramank-4, Nawagarh, District Janjgir- Champa (Chhattisgarh).

---- Petitioner

Vs

1. Krishna Kumar Kashyap S/o Vyasnarayan Kashyap Aged About 34 Years Ex. Labour, R/o Village Mudpar, Post Khisora (Semra), Tahsil Nawagarh, District Janjgir Champa (C G)

---- Respondent

And

WPL No. 181 Of 2013

1. State Of Chhattisgarh Through Its Secretary, Government Of Chhattisgarh, Department Of Water Resources, Mahanadi Bhawan, New Mantralaya, Naya Raipur, P. S. Mandir Hasoud, Revenue And Civil District Raipur (C.G.), (Petitioner No. 1 Was Not A Party Before The Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Government Through The Secretary Of Concerned Department)

2. The Sub Divisional Officer, Minimata Bango Electric Engineering, Sub Division No. 03, Nandelibhatha, Revenue And Civil District Janjgir Champa (C.G.)

---- **Petitioner**

Vs

1. Krishan Kumar Vastrakar S/o Shri Ammar Vastrakar, R/o Village Bharari, Post Ganiyari, Revenue And Civil District Bilaspur (C.G.)
2. The Presiding Officer, Under Industrial Disputes Act, Labour Court, Bilaspur, P. S. Bilaspur, Tehsil, Revenue And Civil District Bilaspur (C. G.)

---- **Respondent**

For Petitioner/State	Shri D.K. Whankhade, Govt. Adv., Shri Sangarh Pandey, Dy. Govt. Adv. & Ms. Astha Sharma, Panel Lawyer.
For respective Respondents	Shri Vinod Deshmukh, Shri C.R. Sahu, Shri Lav Sharma & Shri K.P.S. Gandhi, Advocates

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

14/10/2015

1. The present writ petitions have been preferred challenging the award passed by the Labour Court whereby the respondents/workmen have been directed to be reinstated without backwages.

2. Facts of the case, briefly stated, are that the respondent-workmen were working as daily wage labourers in the Departments of Forest & Water Resources. They were retrenched from service without issuing any show cause notice or without making payment of any retrenchment compensation. The workmen raised industrial disputes before the appropriate authority. The said authority referred the disputes for adjudication under the I.D. Act to the Labour Court.
3. Before the Labour Court, the workmen examined themselves in support of their claim for reinstatement, whereas, the Department denied the claim and submitted that the Department utilized the services of workmen on the basis of availability of work and they have not been appointed against any sanctioned post. It was stated that the Department has not committed any illegality by removing the workmen, as they have no right to hold the post.
4. The Labour Court, in its respective impugned awards, has found that the workmen have proved that they have worked for a continuous period of 240 days, immediately preceding the date of their removal from service and further that they have not been paid any retrenchment compensation at the time of their removal.

5. Relying on the orders passed by this Court in several of its earlier cases in the matters of **Municipal Council, Birgaon vs. Manoj Verma** (W.P.(L) No.9/2013, decided on 28th October, 2013) and **State of Chhattisgarh and another v. Dhaniram** (W.P.(L) No.3034 of 2009, decided on 02.02.2011) as also on the principles laid down by the Supreme Court in **Hari Nandan Prasad and another vs. Employer I/R to Management of Food Corporation of India and another** (2014) 7 SCC 190 and **Bhuvnesh Kumar Dwivedi vs. Hindalco Industries Limited** (2014) 11 SCC 85, learned counsel for the State submit that in the case in hand, the Labour Court ought not to have directed for reinstatement, because, payment of compensation in lieu of reinstatement would serve the ends of justice. During the course of hearing of the matter, learned counsel appearing for the State produced the chart mentioning the details of workmen. The said chart is taken as part of the record.
6. Per contra, learned counsel for the respondent-workmen would submit that the present cases are different from those cases wherein this Court has ordered for payment of compensation in lieu of reinstatement.
7. In **Hari Nandan Prasad** (supra), the Supreme Court has held thus in para 19 & 20 :

“19. The following passages from the said judgment would reflect the earlier decisions of this Court on the question of reinstatement: (*BSNL* case, SCC pp. 187-88, paras 29-30)

“29. The learned counsel for the appellant referred to two judgments wherein this Court granted compensation instead of reinstatement. In *BSNL v. Man Singh*, (2012) 1 SCC 558, this Court has held that when the termination is set aside because of violation of Section 25-F of the Industrial Disputes Act, it is not necessary that relief of reinstatement be also given as a matter of right. In *Incharge Officer v. Shankar Shetty*, (2010) 9 SCC 126, it was held that those cases where the workman had worked on daily-wage basis, and worked merely for a period of 240 days or 2 to 3 years and where the termination had taken place many years ago, the recent trend was to grant compensation in lieu of reinstatement.

30. In this judgment of *Shankar Shetty*, this trend was reiterated by referring to various judgments, as is clear from the following discussion: (SCC pp. 127-28, paras 2-4)

‘2. Should an order of reinstatement automatically follow in a case where the engagement of a daily-wager has been brought to an end in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short “the ID Act”)? The course of the decisions of this Court in recent years has been uniform on the above question.

3. In *Jagbir Singh v. Haryana State Agriculture Mktg. Board*, (2009) 15 SCC 327, delivering the judgment of this Court, one of us (R.M. Lodha, J.) noticed some of the recent decisions of this Court,

namely, *U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey*, (2006) 1 SCC 479, *Uttaranchal Forest Development Corpn. v. M.C. Joshi*, (2007) 9 SCC 353, *State of M.P. v. Lalit Kumar Verma*, (2007) 1 SCC 575, *M.P. Admn. v. Tribhuban*, (2007) 9 SCC 748, *Sita Ram v. Moti Lal Nehru Farmers Training Institute*, (2008) 5 SCC 75, *Jaipur Development Authority v. Ramsahai*, (2006) 11 SCC 684, *GDA v. Ashok Kumar*, (2008) 4 SCC 261, and *Mahboob Deepak v. Nagar Panchayat, Gajraula*, (2008) 1 SCC 575, and stated as follows: (*Jagbir Singh case*, SCC pp. 330 & 335, paras 7 & 14)

“7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

* * *

14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however,

be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily-wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily-wager who does not hold a post and a permanent employee."

4. *Jagbir Singh* has been applied very recently in *Telegraph Deptt. v. Santosh Kumar Seal*, wherein this Court stated: (SCC p. 777, para 11)

11. In view of the aforesaid legal position and the fact that the workmen were engaged as daily-wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice."

20. Taking note of the judgments referred to in the aforesaid paragraphs and also few more cases in other portion of the said judgment, the legal position was summed up in the following manner: (*BSNL case*, SCC p. 189, paras 33-35)

"33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back `wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair

labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see *State of Karnataka v. Umadevi* (3), (2006) 4 SCC 1. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied."

(Emphasis supplied)

8. The principle is thus well settled. When removal of a workman is set-aside by the Labour Court on the ground that the daily wage workman has been illegally retrenched in violation of the provisions contained in Section 25 F of the Industrial Disputes Act, the question as to whether the relief of reinstatement is automatic or payment of compensation in lieu of reinstatement would serve the ends of justice would depend on several factors like nature of job in which the workmen were engaged, duration of their engagement, the delay in raising Industrial Dispute, time period which has elapsed from the date of termination etc.

9. The identical issue has already been considered and decided by this Court in **State of Chhattisgarh & Ors. v. Sukhpal Singh & Anr.** {WP (L) No.168/2013 decided on 10-12-2013}, referred to above, and instead of reinstatement, monetary compensation has been awarded. The said decision has been confirmed by the Division Bench of this Court in **Sukhpal Singh v. State of Chhattisgarh & Ors.** {WA No.68/2014, decided on 14.2.2014} and even the same has also been affirmed by the Supreme Court in **Sukhpal Sinnggh etc. v. State of Chhattisgarh & Ors.** {SLP(Civil) No.25153-25154 of 2015, decided on 24-8-2015}.
10. In the present batch of cases most of the workmen, barring in three petitions, have worked for less than 10 years. The following chart would demonstrate the length of service before retrenchment, the year of reference and the date of award in each of the writ petition :

WPL No.	Parties Name	Length of service as daily wager before retrenchment	Year of Reference	Date of award
53/12	State v.			
	Ramesh Kumar Deshmukh	1989-2000	2008	18-11-11
	Chintaram Baghel	1994-2000	2008	18-11-11

38/12	State v. Rajeshwar Kumar Sahu	1989-1995	2009	28-01-11
55/12	State v. Dhan Singh Yadav	1988-1996	1997	30-01-09
54/12	State v. Visheshwar	1981-2000	2008	08-12-11
56/12	State v. Dilharan Bareth	1989-1996	2010	16-08-10
57/12	State v. Bhan Singh	1985-1996	2010	16-08-10
61/12	State v. Dhani Ram	1989-1995	2009	13-07-11
65/12	State v. Satish Kumar Pathak	1989-1995	2009	13-07-11
64/12	State v. Ramyan Prasad Rajwade	1990-1995	2009	13-09-11
62/12	State v. Sandeep Kumar	1989-1995	2010	13-07-11
95/15	State v. Garjan Singh Bareth	1988-1995	2013	30-08-14

66/12	State v. Birichhlal	1989-1995	2009	13-07-11
67/12	State v. Ramsai Sahu	1986-1990	2010	14-10-11
69/12	State v. Maal Kumar Kashyap	1986-1990	2010	12-08-11
71/12	State v. Manharan Das Manikpuri	1994-1996	2009	05-08-11
70/12	State v. Jeetram Sahu	1985-1990	2010	12-08-11
72/12	State v. Krishna Kumar Kashyap	1985-1990	2010	12-08-11
181/13	State v. Krishna Kumar Vastrakar	1987-1995	2011	15-02-13

11. To apply the principles or the tests propounded by the Supreme Court in **Hari Nandan Prasad** (supra) as also in view of the affirmation by the Supreme Court of the order passed by this Court in **Sukhpal Singh** (supra), this Court has given anxious consideration to evolve the common criteria for application in all the cases so that it may not appear that this Court has randomly picked up the writ petitions preferred by the State for allowing the

same against the workmen or for dismissing the same in favour of the workmen.

12. Having thus considered it appears, service rendered by a daily wager for a period of 10 years or more would be a reasonable criteria for holding that in such cases monetary compensation in lieu of reinstatement may not be justified, as it may defeat the ends of justice.
13. The criteria of 10 years is adopted because the same length of service has been considered by the Supreme Court in **Secretary, State of Karnataka and Others v. Umadevi (3) and Others** (2006) 4 SCC 1 for directing the State Governments to frame scheme for regularization as one time measure.
14. For the foregoing, in all such cases where the daily wagers have rendered service for a period of 10 years or more the writ petitions preferred by the State deserve to be dismissed and in other cases where the daily wagers have worked for 10 years or less, the writ petitions are allowed in part. In such cases, this Court modified the impugned award and granted monetary compensation to the workmen in lieu of reinstatement.
15. In view of the above :

- Writ petitions bearing WP (L) No.53 of 2012 (in respect of respondent No.2 Chintaram Baghel only), WP (L) Nos.38/2012, 55/2012, 56/2012, 61/2012, 65/2012, 64/2012, 62/2012, 95/2015, 66/2012, 67/2012, 69/2012, 71/2012, 70/2012, 72/2012 & 181/2013 are allowed in part. Instead of order of reinstatement, the impugned award is modified to the extent that the petitioner State shall pay a sum of Rs.25,000/- to each of the workman for each completed year of service before retrenchment.
- Writ petitions i.e. WP (L) No.53/2012 (in respect of respondent No.1 Ramesh Kumar Deshmukh only), WP (L) Nos.54/2012 & 57/2012 fail and the orders of reinstatement passed by the Labour Court are upheld.

16. There shall be no order as to costs.

Sd/-
Judge
(Prashant Kumar Mishra)

Gowri