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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition No. 5059 of 2005**

Municipal Corporation, Raigarh through the Commissioner, Municipal Corporation, Raigarh, District Raigarh (Chhattisgarh)

---- **Petitioner****Versus**

1. Presiding Officer, Labour Court, Raigarh, District Raigarh (CG)
2. Sudhakar S/o Dayaram, aged about 58 years, Resident of Dipapara, Gandhi Nagar, Raigarh, District Raigarh (CG)

---- **Respondents**


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For Petitioner : Shri B. D. Guru, Advocate

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****17/09/2015**

Challenge in the present writ is to the order dated 17.08.2005 Annexure P-1 passed by the Labour Court, Raigarh in Case No. 66/I.D.Act/2004.

2. The order passed by the Labour Court is a proceeding under Section 33C (2) of the Industrial Disputes Act whereby the petitioner Corporation have not complied with the earlier order dated 15.11.2000 passed by the Labour Court in Case No. 12/I.D.A./97(Ref.) wherein the respondent no.2 employee was granted a relief of reinstatement without back wages setting aside the termination order. The said order dated 15.11.2000 was not challenged by the petitioner any further nor have they complied with the said order.

3. However, after having an order of reinstatement in his favour, respondent No.2 claimed for the salary of 26 months during which he was kept out of employment. The respondent No.2 moved an application under Section 33C (2) of the Industrial Disputes Act before the Labour Court seeking for a direction to the petitioner for payment of salary of 26

months during which he was deliberately made to sit idle for no fault on his part.

4. This proceeding under Section 33C (2) of the Industrial Disputes Act was initiated by the Labour Court and an enquiry was conducted wherein also the petitioner Corporation could not substantiate their contention as to whether there was a willful act on the part of the respondent No.2 in not attending the duties. The Labour Court, in its impugned order, in paragraph-3, has held that in spite of repeated opportunities being given to the petitioner Corporation, they have not adduced any evidence to rebut or counter the evidence which has been led by the employee and thus the impugned order has been passed.

5. Taking into consideration the total facts and circumstances of the case, this Court is of the opinion that no justifiable ground has been brought before this Court to interfere with the impugned order passed by the Labour Court. The impugned order being finding of facts based on the pleadings and evidences, this Court under Article 226 of the Constitution of India would not Act as an Appellate Authority nor would exercise its extraordinary jurisdictional power by substituting the order by a fresh order after conducting a roving enquiry afresh to decide the claim of the employer.

6. Accordingly, the instant writ petition being devoid of merit is dismissed.

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