

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (L) No.702 of 2008

1. Agar Manager, Chhattisgarh Infrastructure Development Corporation, Ambikapur, District Surguja
2. Divisional Manager, Chhattisgarh Infrastructure Development Corporation, Bilaspur
3. Managing Director, Chhattisgarh Infrastructure Development Corporation, Raipur

---Petitioners

versus

1. Uday Singh Tomar, S/o Bacharam Singh Tomar, by occupation Conductor, R/o Darripara, Ambikapur, District Surguja
2. Industrial Court, through Member Judge, Bilaspur

---- Respondents

For Petitioners	:	Shri Ratan Pusty, Advocate
For Respondent No.1	:	Shri K.P.S. Gandhi, Advocate

Hon'ble Shri Navin Sinha, Chief Justice

Order on Board

28/3/2016

1. Heard Learned Counsel for the Petitioners and Respondent No.1.
2. The controversy revolves around an application for voluntary retirement dated 15.1.2003 stated to have been submitted by Respondent No.1.
3. On 11.1.2005 the Labour Court held that Respondent No.1 had never given any application for voluntary retirement as no such document was produced before it. In appeal by the Petitioners, the State Industrial Tribunal on 7.2.2006 remanded the matter to the Labour Court with a direction to produce the letter of voluntary retirement stated to have been submitted by Respondent No.1. The fresh order of the Labour Court dated 28.6.2006 makes it manifest that the application for voluntary retirement was marked Exhibit D-6 and the covering letter to it was marked Exhibit P-4. Respondent No.1 still denied that he had submitted any application

including his signature on it. Accepting his contention the Labour Court again held that he had never submitted any application for voluntary retirement. The appeal preferred by the Petitioners against the same was dismissed on 3.11.2007 reiterating that Respondent No.1 had denied his signature on the application.

4. Learned Counsel for the Petitioners submits that if the document in original of voluntary retirement by Respondent No.1 was submitted before the Labour Court and Respondent No.1 was denying his signature on the same, the Labour Court ought to have had a cross verification done of the signature of Respondent No.1 rather than accepting his verbal plea against a documentary evidence. The order holding that Respondent No.1 had never submitted any application for voluntary retirement is therefore not sustainable. The decision making process by the Labour Court was flawed making the order arbitrary.

5. At this stage, Learned Counsel for the Petitioners refers to I.A. No.6 of 2011 submitting that pursuant to the order of the Labour Court and the order of this Court dated 22.1.2010 Respondent No.1 is being paid the last wages drawn in compliance with Section 17B of the Industrial Disputes Act, 1947 read with Section 65(3) of the Chhattisgarh Industrial Relations Act.

6. Learned Counsel for Respondent No.1 submits that according to his instructions after the order of the Labour Court upon remand and dismissal of the subsequent appeal he has been reinstated in service and is working today. This oral submission is not supported by any documentary evidence and neither has any reply been filed to I.A. No.6 of 2011 served on Respondent No.1 as far back as 2.8.2011. It is therefore not possible for this Court to enter into a controversy of a disputed fact that whether Respondent No.1 is today working or not.

7. In view of the conclusion that the order of the Labour Court was

unsustainable in absence of a factual cross verification with regard to the signature, naturally Respondent No.1 shall be entitled to the last wages drawn only till date.

8. Conversely, if Respondent No.1 is working and his date of birth was 12.7.1957 naturally he is now on the verge of superannuation. It is expected that depending on the factual situation as may be existing the Petitioners shall keep all aspects in mind before taking a final decision.

9. The writ petition is allowed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE