

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP No.2747 of 2004

1. State of Chhattisgarh, through Conservator of Forests, Durg Circle, Durg (CG)
2. The Divisional Forest Officer (Territorial), Durg (CG)

---- Petitioner

Versus

1. Niranjan Singh, S/o Gayaram
2. Sukalu S/o Rishi
3. Salik S/o Bismal
4. Ramadhin S/o Yulu
5. Vishal S/o Mangal
6. Mahetrib S/o Bohar
7. Dhelia S/o Bhagat
8. Harelia S/o Narsingh
9. Rambai W/o Govardhan

Respondents 1 to 9 through Shri Yashwant S Singh Sahu, General Secretary, Chhattisgarh Krishi Avam Van Karmachari Sharamik Sangh, Banspara, Durg (CG)

10. Presiding Officer, under I.D. Ref-Labour Court, Durg (C.G.)

---- Respondents

And

WPL No.09 of 2012

1. State of Chhattisgarh, Through the Conservator of Forest, Forest Department, Durg, District Durg (CG)
2. The Divisional Forest Officer, General Forest Division, Durg,

District Durg (CG)

---- Petitioner

Versus

1. Vimla W/o Jeevan Aged about 44 years
2. Bhana W/o Bisal Aged about 42 years
3. Durpati W/o Salik

All R/o Village Bhulatola Post and Thana Chhuikhadan Teh Khairagarh
District Rajnandgaon (C.G.)

---- Respondents

For State/Petitioners
For Workmen

Mr. Y.S. Thakur, Dy. A.G.
Mr. T.K. Tiwari, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

02.03.2016

Heard.

WP No.2747 of 2004

1. Challenge in this petition under Article 226/227 of the Constitution of India is to the award passed by the Labour Court, Durg, directing reinstatement of respondents 1 to 9 in the services as daily wagers without any back wages.
2. The workmen were engaged as daily wage labourers in the Government Nursery, Department of Forest, Durg from 1975 onwards.
3. The Labour Court has recorded a finding that before removing the workmen from services, neither any notice was issued nor any

retrenchment compensation has been paid to them, therefore, their removal is contrary to the provisions contained under Section 25F of the Industrial Disputes Act, 1947.

4. In the matter of **Bhuvnesh Kumar Dwivedi Vs. Hindalco Industries Limited, (2014) 11 SCC 85**, the Supreme Court has reiterated the principle as to when the order passed by the Labour Court can be interfered by the High Court in exercise of powers under Article 227 of the Constitution of India. The following has been held in para 22 of the aforesaid judgment:

“22. A careful reading of the judgments reveals that the High Court can interfere with an order of the Tribunal only on the procedural level and in cases, where the decision of the lower courts has been arrived at in gross violation of the legal principles. The High Court shall interfere with factual aspect placed before the Labour Courts only when it is convinced that the Labour Court has made patent mistakes in admitting evidence illegally or have made grave errors in law in coming to the conclusion on facts. The High Court granting contrary relief under Articles 226 and 227 of the Constitution amounts to exceeding its jurisdiction conferred up on it. Therefore, we accordingly answer Point (i) in favour of the appellant.”

5. Having heard learned counsel for the parties and on perusal of the award and the papers available in the record, it would appear that the workmen have worked continuously for a period of 13 years before their removal in the year 1988. The reference was made in the year 1993 and the award was passed on 27.11.1998. The writ petition itself was preferred after about 06 years i.e. in August 2004. Thus, the petition also suffers from delay and laches.
6. Having considered the limited scope of interference in such

matters in view of the law laid down by the Supreme Court in the matter of **Bhuvnesh Kumar Dwivedi (Supra)** as also for the fact that this writ petition suffers from delay and laches and the workmen have rendered about 18 years of service after their reinstatement, there is no scope for interference with the impugned order.

7. Accordingly, the writ petition is dismissed.

WPL No.09 of 2012

1. An application under Section 33-C (2) of the Industrial Disputes Act, 1947 has been preferred by the respondent-workmen seeking execution of the award dated 24.08.1998, which was not obeyed and the workmen were not reinstated.
2. Since WPL No.2747 of 2004 challenging the award dated 24.08.1998 has been dismissed, as afore-stated, and according to Mr. Tiwari, learned counsel for the workmen, the entire amount has already been paid to the workmen, this writ petition has been rendered infructuous.
3. Accordingly, the writ petition is dismissed, as having become infructuous. However, if the cause of action still survives, the Department would be at liberty to move afresh.

Sd/-

Judge

(Prashant Kumar Mishra)