

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 97 of 2013

1. State of Chhattisgarh, through the Secretary, Department of Water Resources, Mahanadi Bhawan, Mantralaya, Raipur (CG)

(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 concerned Department)

2. The Executive Engineer, Water Resource Department, Chhuikhadan, P.S. Chhuikhadan, District Rajnandgaon (CG)

---- Petitioners

Versus

1. Shri Hansraj, aged about 35 years, S/o Ghasiya Ram Gadariya, R/o Village Kaudiya, Post Dewaribhath, P.S. Khairagarh, Tahsil Khairagarh, District Rajnandgaon (CG)
2. The Labour Court, Rajnandgaon, District Rajnandgaon(CG)

---- Respondents

WPL No. 98 of 2013

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2. The Executive Engineer, Water Resource Department, Chhuikhadan, P.S. Chhuikhadan, District Rajnandgaon (CG)

---- Petitioners

Versus

1. Shri Ishwar, S/o Sita Ram Sahu, R/o Village Kaudiya, Post Dewaribhath, PS Khairagarh, Tahsil Khairagarh, District Rajnandgaon (CG)

2. The Labour Court, Rajnandgaon, District Rajnandgaon(CG)

---- Respondents

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(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, Water Resource Department, Chhuikhadan, P.S. Chhuikhadan, District Rajnandgaon (CG)

---- Petitioners

Versus

1. Shri Babulal Sahu, S/o Budhau Sahu, R/o Village Kaudiya, Post Dewaribhath, P.S. Khairagarh, Tahsil Khairagarh, District Rajnandgaon (CG)
2. The Labour Court, Rajnandgaon, District Rajnandgaon(CG)

---- Respondents

For Petitioners/State	:	Mr. Y.S. Thakur, Dy. AG
For Respondent/Workmen	:	Mr.Shikhar Sharma, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

07/04/2016

1. Challenge in these writ petitions is to the validity of the awards dated 9.10.2012 passed by the Labour Court, Rajnandgaon, whereby the learned Labour Court directed for reinstatement of the workmen in service without backwages.

2. Since the writ petitions involve common facts and common question of law, they are being considered and decided by this common order.
3. The workmen filed statements of claim contending, *inter alia* that they were appointed as labour in the petitioner's department and they rendered their services till 2007, however, without following due process and without issuing any notice, the workmen have been removed from service in spite of the fact that they have rendered service continuously for a period of more than 240 days in a calendar year.
4. Before the labour Court, the petitioner/State denied the claim of respondent-workmen.
5. On completion of enquiry, the labour Court allowed statement of claim filed by the workmen and directed their reinstatement without backwages.
6. Having heard learned counsel for the parties and on perusal of record, it appears that before the labour Court, the State raised a plea that respondent-workmen have never worked with the department, they were serving under a contractor, who was awarded contract by the department. The workmen have not led any proof that they have worked in the department, which could have been done by producing any order of appointment or payment of wages through the Government treasury or pay slip etc. The officer of the department has categorically stated that the system of engaging daily wagers on muster roll has been done away from the year 1996 and there is no record available in the department to show that the workmen have ever been engaged by the department as daily wagers.
7. 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.”

8. Since in the present cases there is absolutely no evidence to substantiate the plea of the workmen of having worked as daily wager in the concerned department of the State Government, the relationship of master or employer and servant or employee between them did not exist and the finding recorded by the labour Court is perverse being wholly contrary to the evidence available on record.
9. For the foregoing, all the Writ Petitions are allowed and the impugned awards passed by the Labour Court are set aside.

Sd/-

Judge
(Prashant Kumar Mishra)