

WRIT PETITION NO. 1754/2004

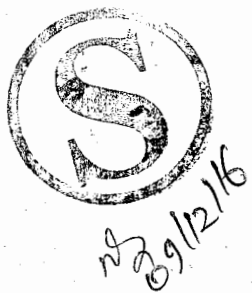
1. **State of Chhattisgarh,
Through: The Secretary,
Forest, Mantralay
Bhawan Raipur
Chhattisgarh**
2. **Director
Kanger Ghati National Park
Jagdalpur, Distrcit Bastar
(Chhattisgarh)**

P. R. No. 1-2431ay
Presented by Shri. S. Vish. Gupta
dated 25-6-57

RESPONDENT

1. **M Bharat
S/o M. A Raju
New Forest Colony
Qtr. No. C-2, Kumharpara,
Jagdalpur District Bastar
(Chhattisgarh)**
2. **The presiding Officer
Labour Court , Raipur,
Camp Court Jagdalpur
Chhattisgarh**

WRIT PETITION UNDER ARTICLE 226/227 OF
THE CONSTITUTION OF INDIA



53
NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 1754 of 2004

- State Of Chhattisgarh And Anr.

---- Petitioner

Versus

- M.Bharat And Anr.

---- Respondent

and

WP No. 1820 of 2006

- State Of Chhattisgarh And Ors.

---- Petitioner

Versus

- M.Bharat And Anr.

---- Respondent

For Petitioners/State

Shri A. S. Kachhawaha, Addl. AG
and Shri Shashank Thakur, GA
Shri Akash Pàndey, Advocate

For Respondent-workman

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

01/12/2016

1. The first writ petition bearing WP No.1754/2004 has been preferred by the State to assail the *ex parte* award dated 06.03.2003 and the order dated 28.04.2004, whereby the petitioners' application for setting aside the *ex parte* award has been dismissed. The second petition bearing WP



54

No.1820/2006 has been preferred to assail the recovery notice issued against the State in execution of the award, which is under challenge in the first writ petition.

2. The respondent raised an industrial dispute, which was referred for adjudication to the labour Court, Jagdalpur on the allegation that he was engaged as Daily Rated Typist in June, 1993 and was continuously working up to 24.02.1999 for more than 240 days in each calendar year, yet he was removed from service without issuing any show cause notice or any order of termination. It was alleged that the concerned Officer of the Kanger Valley National Park, Jagdalpur orally instructed him not to attend duties. In reference proceedings, the petitioners preferred their written statement denying that the respondent was engaged against any clear vacancy and further mentioning that he was engaged on daily wages depending on the availability of work and not as a regular incumbent, therefore, he is not entitled for reinstatement. The petitioners, however, remained absent after filing of written statement and failed to cross-examine the respondent workman when he entered the witness box. Similarly, the petitioners failed to adduce any evidence in support of their defence.

3. The labour Court concluded that respondent's termination amounts to illegal retrenchment under Section 25F of the Industrial Disputes Act, 1947 (henceforth 'the Act, 1947') and

55

since he has worked for more than 240 days in the preceding calendar year, he is entitled for reinstatement.

4. Having heard learned counsel for the parties and on perusal of the record, it would appear that the workman had initially worked from June 1993 to 24.02.1999 and after his reinstatement, he joined on 12.07.2004 and is presently working by way of protection under Section 17B of the Act, 1947, however, the fact remains that the respondent has now worked for a total period of 18 years.
5. Since there is no infirmity in the order proceeding *ex parte* against the petitioners, as it is a case of sheer negligence in making appearance before the labour Court, the evidence led by the respondent workman remained un rebutted. In view of this, the findings recorded by the labour Court that the respondent workman has worked for more than 240 days in a calendar year, does not call for any interference being pure finding of fact. Granting monetary compensation in lieu of the order of reinstatement would not serve the ends of justice in the case because the petitioner has already worked for about 18 years, therefore, this Court does not find any substance in both the writ petitions.
6. The petitions are accordingly dismissed.

Sd/-
Prashant Kumar Mishra
Judge