

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (L) NO. 194 OF 2012**

State of Chhattisgarh, through the Divisional Forest Officer, East Surguja Forest Division, Ambikapur, Surguja (C.G.)

... Petitioner

Versus

Vinod Pandey, S/o Shri Foolchand Pandey, aged about 28 years, R/o Behind Central Bank, Namnakala, Ambikapur, P.S. Civil Line, Ambikapur, District Surguja (C.G.)

... Respondent

For Petitioner	:	Mr. Neeraj Jain, Government Advocate.
For Respondent	:	Mr. K.P.S. Gandhi, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/10/2016

1. The present petition under Article 226 of the Constitution of the India has been filed assailing the award dated 31.3.2012 passed by the Labour Court, Ambikapur in Case No. 68-I.D.Act/2009(Ref.).
2. By way of the said award, the Labour Court has set aside the order of termination/discontinuance of service of the Respondent and has ordered for his reinstatement without back wages.
3. Brief facts of the in nutshell are that the respondent-worker was working with the petitioner-establishment since 1991 to the year 2000 and thereafter the service of the Respondent was discontinued. Thereafter, the Respondent raised an industrial dispute which was referred by the appropriate Government to the Labour Court, Ambikapur where the matter was registered as Case No. 68/I.D.Act/2009(Ref.).
4. Contention of the respondent-worker before the Labour Court by way of a Statement of Claim is that he has put in almost 10 years of continuous service and that without applying the principles of 'last come first go' and in total contravention with the provisions of Chapter V of the

Industrial Disputes Act, 1947 ('the I.D. Act', in short) and without compliance of the statutory provisions as is required under Section 25 of the I.D. Act, the services of the respondent-worker were discontinued.

5. The Petitioner-State who was defendant before the Labour Court filed its reply denying the entire contentions of the respondent-worker and opposed the granting of relief as sought for by the respondent-worker.

6. During the course of evidence the respondent-worker led the evidence of himself as also adduced another evidence of one Ramvilas as PW-2. However, in spite of repeated and en-number of opportunities been granted to the Petitioner/second party before the Labour Court, they did not choose to lead any evidence and the Labour Court finally vide its award passed an order holding that the respondent-worker has been able to establish its case by leading cogent evidence and that there is no reason to disbelieve the contentions of the respondent-worker and accordingly held that the order of discontinuance of service of the respondent-worker is bad in law and accordingly ordered for his reinstatement in services without back wages.

7. Learned Counsel for the Petitioner-State assailing the said award submits that the Court below committed an error of law inasmuch as it has not appreciated the contentions that they had taken before the Court below in their reply and therefore the award needs to be set aside/quashed. He further contends that the Court below should have gone into the moot question of whether the provisions of the I.D. Act are applicable upon the Forest Department of the State Government or not and then it should have proceeded further.

8. Both these contentions of the learned Counsel for the Petitioner are not sustainable for the reason that the Petitioner-State or for that matter the Forest Department has not cared to lead any evidence before the

Labour Court in spite of many opportunities being granted to them to substantiate their contentions put forth in their reply. In the absence of any evidence to substantiate the contentions and that there being no reason to disbelieve the contentions of the respondent-worker who has also adduced a supporting evidence establishing the fact that he has been in continuous employment since 1991 onwards till the date of discontinuance, this Court is of the opinion that the Court below has not committed any error of law while passing the impugned award. Even the perusal of the pleadings to the petition do not show any reason as to what prevented them from leading proper evidence in their support before the Labour Court.

9. It is also a settled position of law that under the writ jurisdiction, this Court would not interfere with the order passed by the Labour Court as if sitting as an Appellate Authority particularly in a case under I.D. Act. The interference would be only to a limited extent whether there is perversity in the finding arrived at by the Court below or the Court has exercised its jurisdiction beyond the powers conferred upon it. The High Court can interfere with factual aspect only when it is convinced that the Labour Court has made patent mistakes in admitting evidence illegally or the Court has committed a grave error in law in coming to its conclusions.

10. The jurisdiction under Article 226 of the Constitution of India in examining the correctness of the order of the Labour Court was confined to errors in the decision making process and not on the merits of the decision itself. This Court does not find any infirmity in the decision making process warranting interference.

11. The Supreme Court in the case of **Harjinder Singh v. Punjab State Warehousing Corporation [2010 (3) SCC 192]** held as under:-

“21. Before concluding, we consider it necessary to observe that while exercising jurisdiction under Articles 226 and /or 227 of the Constitution in matters like the present one, the High Courts are duty-bound to keep in mind that the Industrial Disputes Act and others similar legislative instruments are social welfare legislative instruments and the same are required to be interpreted keeping in view the goals set out in the Preamble of the Constitution and the provisions contained in Part IV thereof in general and Articles 38, 39(a) to (e), 43 and 43-A in particular, which mandate that the State should secure a social order for the promotion of welfare of the people, ensure equality between men and women and equitable distribution of material resources of the community to subserve the common good and also ensure that the workers get their dues. More than 41 years ago, Gajendragadkar, J. opined that:

'10. The concept of social and economic justice is a living concept of revolutionary import; it gives sustenance to the rule of law and meaning and significance to the ideal of welfare State.'

(State of Mysore v. Workers of Gold Mines¹, AIR p.928, para 10.)”

This view has further been reiterated in the case of **Bhuvnesh Kumar Dwivedi v. Hindalco Industries Limited [2014 (11) SCC 85]**.

12. The Petitioner through the present writ petition has failed to show either there being any perversity in the finding or the Court below having exceeded its jurisdiction. In the absence of the two, the finding arrived at by the Labour Court has to be accepted to be proper, legal and justified.

13. In this view of the matter, this Court does not find any strong case on behalf of the Petitioner made out calling for interference with the impugned award of the Labour Court and the petition being devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/

1 AIR 1958 SC 923