

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (L) NO. 210 OF 2016

- Rajendra Manikpuri, S/o Shri Jugtu Das Manikpuri, aged about 37 years, R/o Village Sambalpuri, Post Sakri, District Bilaspur (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through its Secretary, Public Works Department, Mahanadi Bhawan, New Raipur, P.S. Rakhi, Raipur, District Raipur (C.G.)
2. Executive Engineer, Public Works Department (B&R), Division No.1, Bilaspur (C.G.)
3. Sub Divisional Officer, Public Works Department (B&R), Sub Division No.1, Bilaspur (C.G.)

... Respondents

For Petitioner	:	Mr. Vinod Deshmukh, Advocate.
For Respondent-State	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/12/2016

1. Challenge through the present writ petition is to the award dated 8.8.2016 passed by the Labour Court, Bilaspur in Case No. 26/ID Act/Reference/2012.
2. By way of the present writ petition the learned Labour Court in a reference which was referred to it in respect of the alleged illegal termination of the Petitioner has decided the case particularly allowing the reference to the extent that the termination was declared to be illegal however in lieu of reinstatement a lump sum Rs.25,000/- was awarded to the Petitioner.
3. Learned Counsel for the Petitioner at the outset submits that the award of the Labour Court is bad in law for the reason that the Court below has not properly appreciated the terms of reference which was made to the Labour Court. According to him, the Labour Court ought to have dealt and decided each terms of the reference which was made over by the State Government

for adjudication. It was also contended by the Counsel for the Petitioner that the Labour Court has not passed a reasoned order so far as the terms of reference are concerned. According to him, the Labour Court ought to have considered each of the terms of reference and should have answered the reference for reaching to a logical conclusion. It was contended that the finding of the Labour Court is bad in law for the reason that the Labour Court has not discussed as to how the order of removal was bad in law or how it is an illegal termination except for the fact that the Court below has abruptly held the removal to be an illegal termination. It was also contended by the Counsel that even while granting compensation the Court below ought to have discussed as to why the according to the Court below the reinstatement of the Petitioner was not plausible or justified in the given facts and circumstances of the case and why it is only compensation which should be given in lieu of reinstatement.

4. Learned Counsel for the State does not make any submission so as to justify the order of the Court below.

5. Having considered the submissions put forth by the Counsel for the Petitioner and on perusal of the record what is necessary to be looked into is the terms of reference which was made by the State Government to the Labour Court. For ready reference the terms of reference in the present dispute made by the State Government to the Labour Court is reproduced herein below :

- “(1) Whether the dispute raised by the applicant after about 10 years is barred by the period of limitation?
- (2) If not, whether the termination of service of the applicant is legal and proper in view of the decision rendered by the Hon'ble Supreme Court in the case of *Secretary, State of Karnataka & Others v. Uma Devi & Others*?
- (3) If not, to what relief the applicant is entitled? What direction should be given to the non-applicant in this regard?”

6. From perusal of these terms of reference what clearly reflects is that there were three issues which were referred by the State Government to the Labour Court for adjudication. *First*, whether the dispute raised by the Petitioner suffered from delay or laches? *Second*, whether in the light of the judgment of the Supreme Court in the case of *Secretary, State of Karnataka & Others v. Uma Devi & Others*, the removal from service would amount to illegal termination or not? *Third*, in case if the termination was bad then what relief can be granted to the Petitioner and in this regard what directions can be issued to the State Government?

7. A perusal of the record reflects that so far as the evidence is concerned, the worker involved in the dispute, i.e., the Petitioner, had examined himself before the Labour Court and his statement was corroborated by another witness, namely, Raghunath Prasad Suryavashi, who had deposed in favour of the Petitioner of both having worked continuously with the Respondents. However, there was no evidence whatsoever adduced by the State Government before the Labour Court and the matter was decided without there being any evidence on behalf of the State Government before the Labour Court as such there was no rebuttal to the evidence led by the Petitioner. In the absence of any evidence to rebut the evidence of the Petitioner, the normal consequence would be that the evidence of the worker which was supported by an independent witness has to be accepted. In the given facts and circumstances, the Court below was first required to pass a reasoned order as to why according to the Court below the dispute raised by the worker did not suffer from delay and laches.

8. In the present case, it appears that there was only one line order passed by the Labour Court while deciding the issue holding that it does not suffer from delay and laches on the sole ground that the provisions of the Industrial Disputes Act does not prescribe any period of limitation. However, in

the opinion of this Court, the Court below ought to have passed a reasoned order taking into consideration the fact that as per the worker himself he had last worked with the Respondents in the year 2001 and the dispute was raised by him only in the year 2012 and there was no explanation given as to why he could not raise a dispute for 12 years and what was he doing during these 12 years and why he was not aggrieved with his alleged termination of service for these 12 years.

9. In the opinion of this Court, the Labour Court also should have considered the fact that in 2011 the Industrial Disputes Act was amended and there was a provision enacted where a worker could have directly gone to the Labour Court for redressal of his grievance in case if no reference was made and under the said amended provision there was also a period of limitation prescribed for raising a dispute. All these issues ought to have been discussed and adjudicated upon by the Labour Court which in the instant case the said Court has not done. Further, the impugned award also reflects that the reference no.2 so far as the applicability of the judgment of the Supreme Court in the case of *Secretary, State of Karnataka & Others v. Uma Devi & Others* would be applicable in the factual circumstances of the case or not, also does not appear to have been discussed by the Court below. Last but not the least, this Court also finds that the finding of the Labour Court holding the termination of the Petitioner to be an abrupt finding without any discussion. In the opinion of this Court in the given evidence which has come on record, the Labour Court should have discussed the aspect as to how the Court reached to the conclusion that the discontinuance of the employment of the Petitioner amounted to an illegal termination. This aspect also is missing from the order of the Labour Court.

10. Another fact which cannot be brushed aside is the fact that the law by now is well settled that whenever an order of termination is said to be illegal, the normal consequence is reinstatement with all consequential benefits. In the instant case in spite of the fact that the Labour Court has reached to the conclusion that the termination of the Petitioner is bad in law but the Court has not discussed anything on the issue as to why the relief of reinstatement with all consequential benefits should not be and cannot be granted to the Petitioner and in lieu of which the Labour Court has granted the relief of monetary compensation.

11. In the absence of a reasoned order on the aforesaid issues discussed by this Court in the preceding paragraphs, the impugned award of the Labour Court is not sustainable and the same deserves to be and is accordingly set aside. The matter is remitted back to the Labour Court for passing of a fresh order as expeditiously as possible after taking into consideration the evidence which has come on record and also by giving reasons while answering the issues or terms of reference made to the Labour Court.

12. With the aforesaid directions, the writ petition is disposed of.

Sd/-
(P. Sam Koshy)
Judge