

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12114 of 2014

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Yugal Kishor Mishra S/o Sri Karuna Shankar Mishra, R/O village Churhet, P.O. +
P.S.- Sono, District Munger

.... Petitioner

Versus

1. The State of Bihar through the Engineer in Chief, Department of Irrigation,
(Water Resource Department), Government of Bihar, Patna
2. The Presiding Officer, Labour Court, Bhagalpur
3. The Chief Engineer, Irrigation Department, Bhagalpur
4. The Superintending Engineer, Ganga Pump Canal Circle

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vishal Saurabh, Advocate
For the Respondent/s : Mr. Chandra Shekhar Singh, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-03-2017

In the instant writ application, the petitioner has prayed for quashing of the order dated 22.01.2013 passed by the Presiding Officer, Labour Court, Bhagalpur whereby termination of the petitioner-workman by the management has been held to be valid and the petitioner has not been found entitled to any relief.

2. The contention of the petitioner is that the petitioner had worked for more than 240 days in Ganga Pump Canal Circle, Muger as clerk, but the respondents terminated him from service in contravention of Section 25(f) of the Industrial



Disputes Act, 1947.

3. I have heard learned counsel for the petitioner and learned counsel for the State.

4. The Labour Court has given a categorical finding that though the petitioner has stated that he had worked for 309 days in a calendar year, such statement was not supported by any document. The finding of the Labour Court as recorded in paragraph 5 of the impugned order is as under :-

“5. This Reference is with respect to termination of the workman namely Yugal Kishor Mishra by the management. Admittedly, the workman has worked as clerk on daily wages in the employment of management. Section 25(F) of the I.D. Act requires 240 days of work in a calendar year. Though workman has stated that he has worked for 309 days in a calendar year but this statement is self serving and is not supported by any document. It is well settled that workman himself has to prove that he has worked regularly for 240 days in a calendar year in the employment of management. More over Hon’ble High Court Patna has held in case of Sanjay Kumar Tiwary and others vs. State of Bihar that for termination of daily wager and casual worker compliance of section 25(F) of the I.D. Act is not necessary. Workman has not proved the fact of 240 days of work in a calendar year. Having regard to the



verdict of the Hon'ble Court and the circumstances of this case and material available on record the termination of the workman is valid. Hence award.

Award

Therefore, it is held that the termination of workman by the management is valid and he is not entitle to get any relilef.”

5. It is true that a casual employee, if he has completed 240 days of work in preceding 12 months, then his service cannot be terminated without giving notice or compensation in lieu of Section 25(f) of the Industrial Disputes Act, 1947.

6. However, since the petitioner failed to establish before the Labour Court that he had worked for 240 days in a calendar year in Ganga Pump Canal Circle, Muger, no illegality can be found with its impugned order.

7. Accordingly, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2017
Transmission Date	NA

