

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 105 of 2007

- Kanhaiyalal Sindhi, aged about 43 years, son of Shri Thakurdas Sindhi, resident of Gandhi-Chowk, Balodabazar, District Raipur (CG)

---- Petitioner

Versus

1. Chhattisgarh Infrastructure Development Corporation, Through its Managing Director, Shastri Chowk, Raipur (CG)
2. State Industrial Court, Chhattisgarh, through Registrar, Raipur (CG)
3. Labour Court Raipur, through Presiding Officer, Raipur (CG)
4. M.P. Road Transport Corporation, Head Quarter Habibganj, Bhopal (MP)

---- Respondent

And

WPL No. 5 Of 2007

- Koushal Jaiswal, aged about 45 years, S/o Shri Chhatar Singh Jaiswal, resident of Village Tartora, P.O. Jarve, P.S. Palari, District Raipur (CG)

---- Petitioner

Vs

1. Chhattisgarh Infrastructure Development Corporation, Through its Managing Director, Shastri Chowk, Raipur (CG)
2. State Industrial Court, Chhattisgarh, through Registrar, Raipur (CG)
3. Labour Court Raipur, through Presiding Officer, Raipur (CG)
4. M.P. Road Transport Corporation, Head Quarter Habibganj, Bhopal (MP)

---- Respondent

For Petitioners : None.

For Respondents : None.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

03/05/2017

1. In both the writ petitions, the petitioners would call in question the appellate orders passed by the Industrial Court, Chhattisgarh, Raipur whereby the Industrial Court has allowed the appeal preferred by the respondent/employer to set aside the order granting back wages to the petitioners.
2. Since the employer has not preferred any writ petition challenging the order of reinstatement, issue in both the writ petitions is confined only to the grant of back wages.
3. The Industrial Court has set aside that part of the order of the Labour Court whereby it has allowed 50% back wages on the ground that the said order has been passed without examining as to whether the workman was gainfully employed during the period when he remained terminated.
4. In **Chairman-cum-Managing Director, Coal India Limited and others Vs. Ananta Saha and Others** {(2011) 5 SCC 142}, the Supreme Court has held that even when the Labour Court answers reference in favour of the workman and directs reinstatement, payment

of back wages still remains discretionary.

5. In both the matters, the appellate Court has assigned reasons as to why grant of back wages may not be permissible.
6. No-one appears for the petitioners to convince this Court as to why the order concerning refusal to grant back wages suffers from any provision of law or any such legal infirmity which takes away the petitioner's accrued right.
7. Considering the law laid down by the Supreme Court in **Chairman-cum-Managing Director, Coal India Limited** (Supra), there is no substance in the writ petitions, they deserve to be and are hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve