

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (L) NO. 6220 OF 2010

State of Chhattisgarh, through Sub Divisional Officer, Public Works Department (Building & Road), Sub Division No.2, Rajnandgaon (C.G.)

... Petitioner

Versus

Suresh Kumar, S/o Shriram, aged about 39 years, (Ex. Chowkidar, Public Works Department), occupation presently unemployed, R/o Village Salouni, Post Uparwah, District Rajnandgaon (C.G.)

... Respondent

For Petitioner	:	Mr. B. Gopa Kumar, Dy. Advocate General.
For Respondent	:	Mr. Anoop Majumdar, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/06/2017

1. Challenge in the present writ petition is to the award dated 5.7.2006 passed by the Labour Court, Rajnandgaon, in Case No. 21/I.D.Act/2001(Reference), whereby the Labour Court has decided the reference in favour of the respondent-worker and has granted him the relief of reinstatement without back wages.
2. At the outset, it is pertinent to note that the respondent-worker has pursuant to the award been reinstated by the petitioner-department in the year 2006 and since then he is working with them.
3. The case in brief is that the respondent-worker has raised an industrial dispute alleging illegal termination by the petitioner-department. The contention of the worker before the Labour Court was that he was working as a Store Chowkidar since 19.11.1993 and on which post he continued till 14.1.1999 when his services were discontinued abruptly without any order, retrenchment compensation or issuance of notice.

4. The petitioner-department submitted their written statement and denied the contention of the respondent-worker so far as his continuous employment is concerned. They also denied the claim of the worker on the ground that the substantive status of the worker was that of a daily wage employee and therefore he would not be entitled for the benefits that are otherwise envisaged under Chapter-V of the Industrial Disputes Act. It was also the contention of the petitioner-department that the respondent-worker was engaged against a specific nature of work and immediately after non-availability of the work he was discontinued from service.

5. The Labour Court finally after taking into consideration the pleadings and evidence, vide award dated 5.7.2006 held that the alleged discontinuance of services of the respondent-worker amounts to an illegal termination as the mandatory statutory provisions have not been complied with by the department particularly non-granting of retrenchment compensation or, for that matter, issuance of notice etc. It is this award which is under challenge in the present writ petition.

6. Learned Deputy Advocate General appearing for the petitioner-department submits that in the instant case the Labour Court has failed to appreciate the fact that the respondent-worker was a daily wage worker and he did not have any substantive right in his favour. He contends that the respondent was appointed for a particular nature of work and immediately after completion of the said work there was no requirement of engaging a Chowkidar and therefore the services of the respondent were discontinued and the same would not amount to retrenchment or illegal termination.

7. Learned Counsel for the respondent-worker opposing the petition submits that the writ Court in exercise of its jurisdiction would not conduct a roving enquiry to reach to a conclusion than what has been arrived at by

the Labour Court unless the Petitioner shows any perversity in the finding of the Labour Court. He further submits that the finding of the Labour Court is a finding on facts based on the evidence which have come on record and therefore the impugned award does not warrant any interference. He also submits that the scope of interference get reduced to the minimal in the event of there being no perversity or a finding contrary to the evidence on record. Lastly, he submits that in compliance to the impugned award the petitioner establishment has already reinstated the respondent and he has been working continuously since then and now has put in about 12 years of service after his reinstatement and therefore equity is in the favour of the respondent and the impugned award does not warrant any interference.

8. Considering the total facts and circumstances of the case particularly keeping in view the fact that the respondent-worker subsequent to his reinstatement has now put in more than a decade in service and the fact that the witness of the management, Laxman Prasad Goyal, has also accepted the employment of the respondent-worker from 1993 and the fact that the petitioner-department having reinstated the respondent-worker shows that there is a availability of work till date, this Court is not inclined to entertain the present writ petition as no strong and cogent ground has been established calling for an interference with the impugned award.

9. The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge