

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (L) NO. 2888 OF 2009

1. State of Chhattisgarh, through Executive Engineer, Department of Public Health Engineering, Sub Division- Chuikhadan, District Rajnandgaon (C.G.)
2. The Executive Engineer, Department of Public Health Engineering, Sub Division- Kawardha, District Kabirdham (C.G.)

... Petitioners

Versus

Hinsaram, S/o Sukhiram Nishad, R/o Ward No.9, Chuikhadan, Tahsil-Chuikhadan, District Rajnandgaon (C.G.)

... Respondent

For Petitioners	:	Mr. B. Gopa Kumar, Dy. Advocate General.
For Respondent	:	Mr. Shikhar Sharma, 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 12.3.2008 passed by the Labour Court, Rajnandgaon, in Case No. 120/I.D./2007(Ref.), whereby the Labour Court has answered the reference in favour of the respondent-worker and has granted him the relief of reinstatement with full back wages.
2. Case in brief is that the State Government vide its order dated 12.7.2007 had made a reference to the Labour Court, Rajnandgaon with the following terms of reference:

“Whether the termination of services of Shri Hinsaram is legal and proper. If not, to what relief he is entitled for and what directions should be issued to the employer in this regard?”
3. The respondent-worker entered his appearance before the Labour Court and filed his statement of claim submitting that he was initially engaged as a Hand Pump Mechanic on 1.10.1987 under the petitioner-department and continued to work and later on his name was entered in the muster roll in the year 1989 and he continued on the said work uninterruptedly till 20.10.2002 when abruptly without any notice and

retrenchment compensation or any allegation as such his services were terminated.

4. Notices were issued to the petitioner-department but in spite of proper service, none appeared on their behalf and the Labour Court proceeded ex parte. Taking into consideration the evidence which have come on record, finally the Labour Court passed an ex parte award on 12.3.2008 allowing the claim of the respondent-worker granting him the relief of reinstatement with full back wages. It is this award which is under challenge in the present writ petition.

5. Perusal of the record would reveal that the present writ petition has been filed on 16.6.2009. On a query being put to the learned Counsel for the Petitioners, he on instructions from the department submits that the respondent-worker in compliance to the award of the Labour Court has been reinstated in service on 14.7.2008. If we go by the record as stated by the learned Counsel for the Petitioner, it would reveal that the present writ petition was filed after about one year from the date the respondent-worker was reinstated. The Petitioners till date have not been able to show any justifiable reason as to why a prompt challenge was not made to the impugned award. For this reason, this Court is not inclined to entertain the present writ petition. This Court is also not inclined to enter the present writ petition, for the reason that the award under challenge is an ex parte award and that the respondent-worker has already been reinstated in service in the year 2008 and who is working for last more than 10 years. No effort whatsoever has been shown to be made by the Petitioners in getting the ex parte award set aside/quashed, keeping in view the fact that Section 17A of the Industrial Disputes Act has the power to entertain an appeal seeking setting aside of an ex parte award. In the absence of any efforts having been made by the Petitioners in getting the ex parte award

set aside and also there being no evidence to rebut the evidence of the respondent-worker adduced before the Labour Court, this Court finds it difficult in exercise of its writ jurisdiction to scrutiny the award on its merits without there being any evidence of the Petitioners.

6. In the given facts and circumstances of the case, only on the ground of the delay in the filing of the present writ petition even after the reinstatement of respondent-worker and the fact that no efforts have been made by the Petitioners for getting the ex parte set aside, the present writ petition in its present form being devoid of merits is liable to be and is rejected.

7. In the result, the writ petition is dismissed.

Sd/-
(P. Sam Koshy)
Judge