

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No.384 of 2003**

Shafi Mohammad S/o Noor Mohammad, Aged about 42 years, R/o
Gita Bhawan Gali, Gulab Bag, Gaduiya Bhind Distt.Bhind

---- Petitioner

Versus

1. State Industrial Court, Bench at Raipur
2. Chhattisgarh Infrastructure Development Corporation,
Through Divisional Manager, C.I.D.C. Raipur (Transport
Section), Chhattisgarh

---Respondents

For Petitioner	:	Mr.Vinod Deshmukh, Advocate
For Respondent No.2	:	Mr.Ratan Pusty, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

18/05/2017

1. The petitioner was terminated by the erstwhile Madhya Pradesh State Road Transport Corporation (hereinafter called as "MPSRTC") by holding departmental enquiry. The petitioner filed an application under Section 31(3) of the Chhattisgarh Industrial Relations Act, 1957 before the Labour Court in which domestic enquiry was held illegal by the Labour Court on 26.4.1996 and respondent-MPSRTC was given an opportunity to prove the misconduct of the petitioner. MPSRTC examined three witnesses namely R.P.Bajpai, M.S.Parmar and D.S. Singh to prove the misconduct of the petitioner.
2. The Labour Court by order dated 5.10.1996 held that the MPSRTC has failed to prove the misconduct against the petitioner and also held the order of termination to be illegal. Against which, MPSRTC preferred an appeal before the Industrial Court. The Industrial Court by the impugned order dated 1.4.2000 allowed the appeal preferred by the MPSRTC

and set aside the order of the Labour Court. Against which, now the petitioner has preferred this writ petition.

- 3.** Mr.Vinod Deshmukh, learned counsel appearing for the petitioner, would submit that finding of the Labour Court that misconduct has not been established by the MPSRTC has not been properly considered by the Industrial Court and in a very brief order without properly referring the finding of the Labour Court allowed the appeal.
- 4.** On the other hand, learned counsel appearing for respondent No.2 would support the impugned order.
- 5.** I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
- 6.** The Labour Court has given sufficient and cognizant reasons and held that MPSRTC has failed to prove the misconduct against the petitioner by properly appreciating the evidence, which has been reversed by the Industrial Court without meeting with the reasons recorded by the Labour Court and come to different conclusion.
- 7.** The Industrial Court while hearing the appeal is definitely entitled to reverse the finding of the Labour Court, but there must be patent error in arriving at the finding which is perverse or based on no material or resulting in manifest injustice. Merely because two views are possible on one set of evidence available on record would no ground to interfere with the order of the Labour Court and therefore, specific finding has to be recorded that the finding is perverse and/or contrary to record.
- 8.** A careful perusal of order of the Industrial Court would show that the Industrial Court has simply made some observation with regard to evidence recorded by MPSRTC and proceeded to reverse the finding of fact recorded by the Labour Court,

which is not permissible in law.

- 9.** Therefore, the impugned order passed by the Industrial Court is set aside. The matter is restored to the file of the Industrial Court, Raipur for hearing and disposal in accordance with law. The Industrial Court would decide the matter within a period of two months after hearing both the parties as earlier order was passed by the Industrial Court on 1.4.2000. The parties are directed to remain present before the Industrial Court on **22nd June, 2017**.
- 10.** The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-