

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 1177 of 2004**

R.P.Sharma son of Khimanand Sahu, aged about 63 years, resident of quarter No.155-A, Ranabandha Sector, Post Office Civic Centre, Bhilai Nagar (CG)

---- Petitioner

Versus

1. Managing Director, Steel Authority of India Limited Bhilai Steel Plant, Bhilai, District Durg (CG)
2. Industrial Court of Chhattisgarh Krishna Sadan, 18 HIG, Shankar Nagar, Raipur (CG)
3. Labour Court, Utai Road, Durg, District Durg (CG)

---- Respondents

For Petitioner	:	Mr.H.B.Agrawal, Senior Advocate with Mr.Pankaj Agrawal, Advocate
For Respondent No.1	:	Mr.Ashish Surana, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

18/7/2017

1. The petitioner's date of birth was wrongly recorded by respondent No.1 as 13.6.37 in his service record, which was corrected by respondent No.1 pursuant to the order of the Labour Court on 10.4.1996 as affirmed by the Industrial Court on 25.1.1999 as 14.7.42. Thereafter he was reinstated in service vide order dated 22.5.1999, he was allowed continuity of service and higher grade S-9, annual increment, benefit of wage revision, annual bonus for 1994 to 1999, difference of pay from 1.7.1995 to 30.11.1999, earned leave, half pay leave and interim relief have been given to him. However, he was not allowed other shallowness i.e. medical benefit, incentive bonus, night shift allowance, coke benefit and annual bonus as he was not found eligible for those allowances which are related or linked to the work discharged. The petitioner filed the execution claiming

those benefits/allowances. The Labour Court by order dated 6.12.2001 (Annexure P/10) rejected the same holding that allowances are the benefits given to the employee for the work done and the petitioner cannot be granted allowances which are related or linked to the work discharged. The said finding has been affirmed by the Industrial Court. Feeling aggrieved against the order passed by the Industrial Court, this writ petition has been filed.

2. Mr.H.B.Agrawal, learned Senior Counsel with Mr.Pankaj Agrawal, learned counsel for the petitioner, would submit that in view of definition of wages as defined in Section 2 (35) of the C.G. Industrial Relations Act, 1960 (hereinafter called as 'Act of 1960'), the petitioner is entitled for all the wages/allowances which he has claimed.
3. Mr.Ashish Surana, learned counsel appearing for respondent No.1, would submit that respondent No.1 has paid all the dues which were due and admissible to the petitioner on his reinstatement as per order of the Labour Court, but wages does not include the component of allowances which are related to quantum of work done by the employee, therefore, his application has rightly rejected by the Labour Court and affirmed by the Industrial Court. He would further submit that the petitioner has already given annual bonus for 1994 to 1999.
4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. It is not in dispute that the petitioner was reinstated in service on 22.5.1999 and most of the benefits/allowances have been paid to him

except medical benefit, incentive bonus, night shift allowance, coke benefit.

6. So far as night shift allowance is concerned, the Supreme Court in the matter of Bharat Electronics Ltd., Bangalore Vs. Industrial Tribunal, Karnataka, Bangalore and another¹ has clearly held that night shift allowance is not part of wages. It becomes due only in event of working.
7. Likewise, the Supreme Court in the matter of T.I. Cycles of India, Ambattur Vs. M.K. Gurumani and others² has held that incentive wages/bonus paid on basis of piece rates cannot be treated as 'piece rate wages'.
8. Apart from this, the Labour Court assigned valid and sufficient reason for disallowing the wages/allowances to the petitioner which has been affirmed by the Industrial Court by reasoned and speaking order. The finding recorded by two Courts below is neither perverse nor contrary to record. I do not find any jurisdictional error in the impugned order.
9. Accordingly, the writ petition deserves to be and is hereby dismissed.
No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-

1 AIR 1990 SC 1080

2 AIR 2001 SC 3465