NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 108 of 2017

Bahoranlal Kaivartya S/o Late Lalji Kaivartya, Aged About 55 Years R/o Karra, Post Office Gadhvat, Police Station Ratanpur, District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Labour Department, Mantralaya, New Raipur, Chhattisgarh.

2. Authorized Officer And Dy. Labour Commissioner, Office Of Labour Commissioner, Indravati Bhawan, Raipur, Chhattisgarh.

3. Shri H. K. Khutare Chief Engineer, Water Resources Department, Sihawa Bhawan, Raipur Chhattisgarh.

4. Shri Nitin Meshram, Varishth Bhujhal Vid. Sambhagiy Bhujal Sarvdkshan Ekai No.- 9 Water Resources Department, Raipur, Chhattisgarh. **---- Respondents**

For Petitioner : Mr. KPS Gandhi, Advocate
For State : Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/10/2017

Heard.

1. This petition has been filed by the petitioner aggrieved by order dated 18.01.2017 passed by the Labour Commissioner, by which, the petitioner's application seeking permission for prosecution of the officer alleged to be violating the award have been rejected.

2. Learned counsel for the petitioner submits that even though there was a clear and categoric direction by the Labour Court to regularize the petitioner on the post of Field Assistant or equivalent post but they have

neither been regularized on the post of Field Assistant nor it can be said to be a post equivalent to that of Field Assistant. The petitioner had moved an application but the Commissioner had rejected the application on the technical ground that permission cannot be granted in view of provision contained in Section 467 of Cr.P.C. as cognizance is barred under the law.

3. Having heard the submission of learned counsel for the parties, perusing the provision contained in Section 467 & 468 of Cr.P.C. and in the absence of there being any special provision made under the applicable labour laws in the matter of prosecution have overriding effect on the general provision of Section 467 & 468 Cr.P.C., the alleged offence being punishable with imprisonment only up to 6 months, I do not find any illegality in the order warranting interference of this Court in exercise of power under Article 227 of the Constitution of India. Therefore, the petition is dismissed.

4. It goes without saying that the dismissal of this petition would not come in the way of the petitioner in taking appropriate steps towards enforcement and execution of the award in its true spirit.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha