

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No.858 of 2004**

1. Steel Authority of India Limited, Bhilai Steel Plant, Bhilai, Through Managing Director, Bhilai Steel Plant, Bhilai, Tah. & Distt.Durg (CG)
2. Superintendent, Oxygen Air & Lints, Department, Bhilai Steel Plant, Bhilai, Tah. & Distt.Durg (CG)

----Petitioners**Versus**

1. Shri Dhurwaram, S/o Late Shyam Ratan, R/o Villg. Nandini, Kundini, P.O. Nandini, Kundini, Tah. & Distt.Durg (CG)
2. President, Industrial Court, C.G. at Raipur
3. Presiding Officer, Labour Court, Durg

---- Respondents

For Petitioners	:	Mr.B.D.Guru, Advocate
For Respondent No.1	:	Mr.Pradeep Saxena, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****23/08/2017**

1. Respondent No.1 was charge-sheeted and subjected to disciplinary proceeding by the Steel Authority of India, he was punished with reduction of his wages by two stages for a period of two years w.e.f. 13.2.1990 without cumulative effect. He raised the dispute under Section 31(3) of the Chhattisgarh Industrial Relations Act, 1961 before the Labour Court, Durg. The Labour Court set aside the order holding that charges have not been established, which has been upheld by the Industrial

Court in appeal. Feeling aggrieved against the order of the Industrial Court, this writ petition has been filed by the Steel Authority of India.

2. Mr.B.D.Guru, learned counsel appearing for the petitioners, would submit that finding recorded by the Labour Court as upheld by the Industrial Court is perverse and contrary to law and same deserves to be set aside.
3. On the other hand, Mr.Pradeep Saxena, learned counsel appearing for respondent No.1, would support the impugned order.
4. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. The Labour Court has clearly recorded a finding that the Steel Authority of India has failed to prove the charges as per provisions of the Standing Orders in availing the LTC benefit for children of his second wife and the Industrial Court has affirmed this finding. Both the Courts have clearly held that son/daughter of second wife cannot be treated to be illegitimate for LTC benefit as they were entitled.
6. While dealing with the similar question, the Supreme Court in the matter of **Jinia Keotin and others Vs.**

Kumar Sitaram Manjhi and others¹ considered the status of children from void and voidable marriage in Section 16 of the Hindu Marriage Act, 1955 and held as under:-

“4.....Section 16 of the Act, while engrafting a rule of fiction in ordaining the children, though illegitimate, to be treated as legitimate, notwithstanding that the marriage was void or voidable chose also to confine its application, so far as succession or inheritance by such children is concerned, to the properties of the presents only.

5. So far as Section 16 of the Act is concerned, though it was enacted to legitimise children, who would otherwise suffer by becoming illegitimate, at the same time it expressly provide in sub-section (3) by engrafting a provision with a non obstante clause stipulating specifically that nothing contained in sub-section (1) or sub-section (2) shall be construed as conferring upon any child of a marriage, which is null and void or which is annulled by a decree of nullity under Section 12, "any rights in or to the property of any person, other than the parents, in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents." In the light of such an express mandate of the legislature itself, there is no room for according upon such children who but for Section 16 would have been branded as illegitimate any further rights than envisaged therein by resorting to any presumptive or inferential process of reasoning, having recourse to the mere object or purpose of enacting Section 16 of the Act. Any attempt to do so would amount to doing not only violence to the provision specifically engrafted in sub-section (3) of Section 16 of the Act but also would attempt to court re-legislating on the subject under the guise of interpretation, against even the will expressed in the enactment itself.....”

7. In the light of principle of law laid down by the Supreme

¹ (2003) 1 SCC 730

Court in the aforesaid judgment (supra), it cannot be held that the Labour Court and the Industrial Court are unjustified in holding that the Steel Authority of India has failed to establish misconduct on the part of respondent No.1. I do not find any illegality or perversity in the order of the Labour Court as affirmed by the Industrial Court.

- 8.** Accordingly, the writ petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-
(Sanjay K.Agrawal)
Judge

B/-