

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 140 of 2016**

1. State Of Chhattisgarh Through: The Secretary, Department Of Water Resources, Mahanadi Bhawan, Mantralaya, Naya Raipur, (Chhattisgarh) (The Petitioner No.1 Was Not A Party Before The Learned Labour Court But Has Been Impleaded As Petitioner No.1 In The Instant Petition As The Proper Course Is To Implead The State Government Through The Secretary Of The Concerned Department).
2. Chief Engineer, Water Resources Department, Mini Mata Hasdeo Bango Project, Bilaspur, District Bilaspur, (Chhattisgarh)
3. Executive Engineer, Mini Mata Bango Dam Division No.03, Machadoli, Tahsil Podi Uroda, District Korba, (Chhattisgarh)
4. Sub Divisional Officer, Minimata Bango Sub Division Machatoli, Tahsil Podi Uroda, District Korba, (Chhattisgarh)

---- Petitioners**Versus**

- Teras Ram S/o Bandhu, R/o Village Rakhi, Tahsil Udaipur, Police Station, Udaipur, District Surguja, (Chhattisgarh)

----Respondent

For Petitioners:	Mr. S.P. Kale, Dy. Advocate General
For Respondent :	Mr. Sanjay Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****07.03.2017**

1. The Challenge in the present Writ Petition is the award passed by the Labor Court, Korba dated 30.10.2015 in case No. 31/I.D. Act/2013 (Ref.).
2. The limited challenge through the Petition made by the Petitioners is that the Labour Court while passing the award was liable to answer the reference which has been made by the State Government. The Labour Court could not have traveled beyond the terms of reference. The Labour Court was bound to answer the reference which have been put for

adjudication before the Labour Court. In the instant case the term of reference was “whether the raising of dispute of termination from service by the worker Teras Ram after 16 years from the date of termination was proper, legal or justified? If yes, then whether the termination was proper and legal or not?” The second reference was “whether in the event of answer to the first reference is in favour of the worker then what direction can be issued to the employer State Government in this regard?.

3. The brief fact of the case is that the Respondent was engaged by the Petitioner as a daily wage worker in the year 1990 and he worked under the Petitioner till 30.11.1995 the date from which his services allegedly stood discontinued. The Respondent for the first time raised a dispute in the year 2013 challenging the alleged illegal discontinuation from service to be illegal termination and the appropriate authority made a reference to the Labour Court.
4. The first reference to the Labour Court was, “whether the worker could have raised dispute in respect of his termination of service made 16 years ago?” The proceeding which has been drawn by the Labour Court vide its impugned order dated 30.10.2015 does not reflect any application of mind of the presiding officer to answer the first term of reference. It is incumbent upon the Labour Court to first delve into the issue of whether the worker could have raised the industrial dispute at such a belated stage after 16 years from the date of termination. Only if the Labour Court found that the employee could raise such a dispute at a belated stage would it have answered or decided the remaining issues. In the

instant case it appears that the Labour Court has not applied its mind on the terms of reference made to it by the appropriate authorities neither has it applied its mind to decide the other issues in chronological manner and straightaway proceeded to decide whether the discontinuation of the service of the Respondent employee with effect from 30.11.1995 was proper, legal, justified or not.

5. This Court is of the opinion that once when there is reference made to the Labour Court it is a duty casted upon the Labour Court to decide the term referred to it. Prima facie this Court is satisfied that the Labour Court has not answered the reference in its proper perspective as was expected of it.
6. Once a reference has been made to the Labour Court, then the Court is bound to adjudicate the same. It is equally well settled that the Labour Court cannot go beyond the "Terms of Reference". The jurisdiction of the Labour Court is limited to the Terms of Reference. It is incumbent for the Labour Court to answer all the questions or issues referred to it. It cannot on its own decide the terms of reference in part. It is supposed to decide all the Terms of Reference.
7. Therefore, the impugned award is set aside and the matter is remitted back to the Labour Court once again for re-adjudication and passing of a fresh award keeping in mind the "Terms of Reference" which have been referred to it by the appropriate authority. It is made clear that since this Court has only held that the passing of the award was not proper, a fresh award is all that which is to be passed in the light of the reference made. No fresh evidence or anything as such is required to be taken. The award be passed strictly on the

basis of the evidence which have come on record.

8. Let this exercise be done by the Labour Court within a period of 90 days from the date of receipt of certified copy of this order.
9. With the aforesaid observation the present Writ Petition is allowed in terms of the order stated above.
10. No order as to cost.

Sd/-

(P. Sam Koshy)
JUDGE