

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 6174 of 2005**

Jeevan Lal Sahu, S/o Ubhay Lal Sahu, Aged about 43 years, R/o Pahadipara, Gulabnagar, Gudiyari, Raipur (C.G.)

---- Petitioner**Versus**

1. Chhattisgarh Infrastructure Development Corporation, through its Divisional Manager (Transport Department), C.S.I.D.C., Raipur (C.G.)
2. State Industrial Court, Raipur, Through : its Chairman, Raipur (C.G.)
3. Presiding Officer, Labour Court, Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Vinod Deshmukh, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07/11/2017**

(1) The Labour Court passed an award in favour of the petitioner holding that the petitioner is entitled to be reinstated on the post of Driver; that finding has been reversed by the Industrial Court in appeal filed by the Chhattisgarh State Infrastructure Development Corporation (henceforth "CSIDC"), against which instant writ petition has been filed questioning the same.

(2) Learned counsel for the petitioner submits that the order of the Labour Court has been reversed by the Industrial Court without meeting the reasons recorded by the Labour Court while passing the order and only on the basis of pleadings made by the petitioner, the impugned order has been passed reversing the well reasoned findings recorded by the Labour Court, which is bad and unsustainable in law.

- (3) None for the respondents, though served.
- (4) I have heard learned counsel for the petitioner and perused the impugned order with utmost circumspection.
- (5) The Labour Court has clearly recorded a finding that the petitioner has attained the status of permanent employee as he has worked with the CSIDC from 24.4.2000 to 31.12.2002 and the CSIDC has not challenged the statement of petitioner in evidence and the CSIDC has admitted the above-mentioned fact; that finding has been reversed by the Industrial Court merely on the basis of the pleadings made by the petitioner.
- (6) Appeal before the Industrial Court was the first appeal filed by employer/respondent No.1. First appeal is valuable right of parties and unless restricted by law the whole case is therein open for hearing both on questions of fact and law. The judgment of appellate court must therefore reflect it conscious application of mind and record findings supported by reasons on all the issues arising alongwith contentions put forth and pressed by the parties for decision of the appellate court. While writing a judgment of reversal the appellate court must remain conscious of two principles. Firstly, the findings of fact based on conflicting evidence arrived at by the trial Court must weigh with the appellate court, more so when the findings are based on oral evidence recorded by the same Presiding Judge who authors the judgment. Secondly, while reversing a finding of fact the appellate court must come into close quarters with the reasoning assigned by the trial Court and then assign its own reasons for arriving at a different finding. This would satisfy the court hearing a further appeal that the first appellate court had discharged the duty expected of it. [See **Santosh Hazari Vs. Purushottam Tiwari**¹]
- (7) Reverting back to fact of the present case in hand it would appear that

1 (2001) 3 SCC 179

the Industrial Court being the first appeal court failed to discharge the twin duties entrusted upon him as indicated in **Santosh Hazari** (supra) and reversed the judgment of Labour Court. The judgment of the Industrial Court did not reflect its application of mind on the finding recorded by the Labour Court and reversed the finding merely referring the pleadings of the parties ignoring the evidence, oral and documentary evidence available on the record rendering the judgment vulnerable and liable to be set aside.

(5) In view of above, the impugned order dated 20.9.2005 passed by the Industrial Court is set aside. The matter is remitted back to the Industrial Court for hearing and disposal of the appeal afresh on the basis of evidence available on the record expeditiously preferably within a period of 45 days from the date of receipt of certified copy of this order after affording due opportunity of hearing to both the parties.

(6) Accordingly, the writ petition is allowed to the extent sketched hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

