

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (L) NO. 204 OF 2016

Smt. Satyavati Rajan, aged about 45 years, W/o Shri Rajendra Kumar, R/o C/o Shri Ranjiti Nishad, Ajad Chowk, Kasaridih, Durg, District Durg (C.G.)

... Petitioner

Versus

1. Director, College of Nursing Hospital, Sector-9, Bhilai, Tahsil and District Durg (C.G.)
2. Principal, P.G. College of Nursing Hospital, Sector-9, Bhilai, Tahsil and District Durg (C.G.)
3. The Labour Court, Durg, District Durg (C.G.)

... Respondents

For Petitioner	:	Mr. S.K. Guha, Advocate.
For Respondent No.2	:	Mr. Dharmesh Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/03/2017

1. The present writ petition has been preferred by the Petitioner against the order dated 19.8.2016 passed by the Labour Court, Durg in Case No. 46/I.D.Act/Ref./2012.
2. Brief facts of the case are that the Petitioner had filed a case before the Labour Court, Durg, under the provisions of Industrial Disputes Act, 1947, seeking for a relief of a direction to the Respondents for taking back the Petitioner in service as Hostel Attendant and for granting of all consequential benefits including the period when she was out of job.
3. Contention of the Petitioner is that she was initially appointed in the year 2002 on the post of Hostel Attendant on temporary basis. Subsequently, after completion of a couple of years, her service was regularized and she continued to work on the said post till 2009 when she had applied for permission to undertake the ANM course. According to the Petitioner, she had moved an application to the competent authority and thereafter proceeded to undertake the said course. In the year 2011, after completion of the course,

when the Petitioner came to resume her duty, she was refused joining by the Respondents in spite of repeated request being made. Thereafter, she raised an industrial dispute in this regard and the Labour Court registered the case as Case No. 46/I.D. Act/Ref/2012. During the course of hearing, the petitioner-workman had moved an application before the Labour Court seeking permission to produce secondary evidence so far as her application dated 7.7.2009 is concerned. This application was filed on 27.7.2016. It is this application which has been rejected by the Labour Court vide impugned order, leading to the filing of the present writ petition.

4. Counsel for the Petitioner submits that the said document is a vital document and in the absence of the secondary evidence being permitted to adduce, the entire case of the Petitioner would get weakened and therefore he prayed for allowing of the same.

5. However, opposing the petition, Counsel for Respondent No.2 submits that the order-sheet of the Court below is self-explanatory, inasmuch as the Court below has given specific reasons as to why the application is not sustainable, while rejecting the same. He further submits that the proceeding has reached the fag-end of the trial and at this stage it would not be proper for allowing the said application.

6. Considering the submissions put forth on either side and on perusal of the record, what clearly reveals is the fact that the Petitioner had raised an industrial dispute in the year 2012 and from 2013 till July, 2016, substantial proceeding before the Court below as already been recorded, inasmuch as the evidence of the petitioner-workman has already been completed and the examination-in-chief of the management witnesses has been submitted in the form of affidavit under Order XVIII Rule 4 of the Code of Civil Procedure and that the matter is fixed for cross-examination. At this stage, in case, if said

application is allowed the same would amount to reopening of the entire case and the entire evidence would also have to be recorded altogether again.

7. On due consideration, this Court does not find any illegality and infirmity committed by the Labour Court while rejecting the said application, for the reason that the Petitioner had ample opportunity to bring this fact on record at the initial stage or even at the time when her evidence was being recorded. Subsequent to the substantial evidence being recorded on either side, at this juncture, it would not be proper for entertaining such application on behalf of the Petitioner.

8. The writ petition thus being devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge