

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No.2 of 2014**

Taluk Das, aged 58 years, S/o Ramvilas Sahu, R/o Charbhata (Chichouli) PS Bagnadi, Tehsil Khairagarh, District Rajnandgaon (CG).

---- **Petitioner**

Versus

Divisional Forest Officer, General Forest Division, District Rajnandgaon (CG).

---- **Respondent**

For Petitioner	:	Shri RK Kesharwani, Advocate.
For Respondent	:	Ms. M. Asha, Panel Lawyer.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

28/06/2017

1. Challenge in present petition is the award dated 02.02.2011 passed by the Labour Court, Rajnandgaon, in Case No.170/ID Act/Ref./2007.
2. A dispute was referred by the State Govt. to the Labour Court as to whether the termination of the services of the petitioner was legal and proper ? If not, what relief he is entitled for and what direction can be issued in this regard.
3. Before the Labour Court, the petitioner submitted his statement of claim stating that he has been appointed as Chowkidar with the respondent in June, 1987 and on which date he has continuously worked till his abruptly termination from service on 30.06.1996. He submits that the petitioner has put in about 11 years of service and therefore could not

have been removed from service without following the mandatory provisions of Chapter-V of the Industrial Disputes Act more particularly for non compliance of the provisions of Section 25-F of the Industrial Disputes Act. Therefore, prayed for quashing of the termination order with leave of reinstatement with all consequential benefits.

4. The State entered appearance before the Labour Court and by filing written statement denied the claim of the petitioner and further submitted that the reference raised by the petitioner suffers from delay and laches to the extent that the petitioner was removed from service in June, 1996 and he has raised a reference for the first time in the year, 2007 i.e. after about 12 years of his termination. It was further submitted by the State that even otherwise, the employee has not been able to establish his case by leading cogent evidence so far as his engagement is concerned and also establishing the fact that he has worked continuously for a period of more than 240 days in a calender year. Thus, prayed for answering the reference against the petitioner.
5. The Labour Court took into consideration the evidence which had come on record particularly taking into consideration the fact that dispute itself was raised after more than 12 years after his termination. In addition, the court below also reached to the conclusion that the employee himself has not been able to establish his case so far as his engagement of 240 days in a calender year with the respondent, answered the reference against the petitioner. There was no documentary evidence adduced by the petitioner before the Labour Court with which even an inference

could have been drawn that the petitioner has continuously worked with the respondent from 1987 to 1996. Considering the evidence which have come on record and also the age of the petitioner, the Labour court vide impugned award dated 02.02.2011 held that the petitioner is not entitled for any relief and accordingly the relief of reinstatement was not granted. However, while deciding the issue of compensation held that the petitioner would be entitled for retrenchment compensation for the period 22.12.1987 to 31.05.1993.

6. Counsel for the petitioner submits that the court below has committed an error of law in not appreciating the evidence properly and holding that the petitioner cannot be granted relief of reinstatement. According to him, since employment of the petitioner between 1987 to 1993 stood proved or is established before the Labour Court, it ought to have reached to the conclusion that the petitioner was entitled for the relief of reinstatement in service. It was further contended that the court below ought to have considered the fact that as a matter of fact the relief of reinstatement ought to have been granted as a natural consequence of the termination order being declared illegal for the reason that the petitioner was willing to work, but was denied work by the respondent.
7. The State counsel however submits that there was no perversity in the findings arrived at by the court below nor is there any finding which is contrary to the evidence warranting interference. In any case, the petitioner has been granted benefit of entitlement of retrenchment compensation, the award seems to be fair and justified and does not

warrant any interference and the petition deserves to be dismissed. In addition, the worker it seems was not interested in working and therefore he had not raised a dispute for a period of about 12 years.

8. Having considered the rival contentions put forth on either side and on perusal of record, admittedly when the reference was being answered, the petitioner was more than 55 years of age which forced the Labour court to reach to the conclusion of denying the reinstatement. Further, when the writ petition was filed, he was aged about 58 years and pending the petition before this court, he has definitely reached the age of superannuation. Therefore, at this juncture, it would not be proper to grant the order of reinstatement in service to the petitioner. Moreover, the dispute itself was raised at a much belated stage and it appears that he was not very keen to work at that point of time as he himself did not raise a dispute promptly. However, so far as entitlement of compensation is concerned, since the Labour court has granted the relief of the petitioner being entitled for retrenchment compensation for the period 22.12.1987 to 31.05.1993 and which has not been challenged by the respondent State, therefore, this court does not find any good reason to interfere with the same. Accordingly, in the event, if the said retrenchment compensation, as awarded by the Labour court has not been honoured by the respondent/State, the same can be got executed by the petitioner in accordance with law.
9. Reserving the aforesaid liberty to the petitioner for executing the award so far as retrenchment compensation is concerned, this court does not

find any strong reason to interfere with the findings of Labour court denying reinstatement.

10. Thus, the petition fails and is accordingly dismissed.

Sd/-

(P. Sam Koshy)

Judge

inder