

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No.50 of 2017**

Shyam Rishi Chandrakar, S/o Shri Jeelokhan Chandrakar, aged about 43 years, Ex-daily wagers worker, at Bhatagaon (R) LIS Tandula, Water Resources Sub Division No.1, Aadmabad, Tehil Balod, District Durg (CG).

---- Petitioner

Versus

1. Sub Divisional Officer, Tandula Water Resources Sub Division No.1, Aadmabad, Tehsil Balod, District Durg (CG).
2. Executive Engineer, Water Resources Division Durg, District Durg (CG).

---- Respondents

For Petitioner	:	Shri Vinod Kumar Sharma, Advocate.
For Respondents/State	:	Shri SP Kale, Deputy Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

03/02/2017

1. By way of present petition, the petitioner is assailing the order dated 11.05.2015 passed by the Labour Court, Durg, in Case No.36/ID Act/.2009 Reference.
2. The case of the petitioner is that, he was engaged as daily wage worker as Guard under the respondents in May, 1993 and continued to work on the said post till August, 1994 when he was abruptly discontinued/terminated without compliance of the provisions of Industrial Disputes Act.
3. Learned counsel appearing for the petitioner submits that the petitioner had worked with the respondents for a continuous period of more than 240 days and therefore, termination/retrenchment of the

petitioner was illegal. The petitioner would be entitled for reinstatement in employment with consequential benefits. However, the court below has not properly appreciated the evidence which have come on record in this regard and have decided the matter in a mechanical manner.

4. The State counsel however opposes the petition and submits that the court below has properly appreciated the evidence and thereafter had passed the order impugned. Therefore, the order impugned does not warrant any interference. According to the State counsel, the reference itself was raised by the petitioner after more than 15 years from the date of his discontinuance in service. Even in the evidence, he has not established so far as having worked for more than 240 days. Lastly it was contended by the State that the status of the petitioner was that of daily wage worker and therefore, no substantive right had accrued in his favour. Thus, prayed for rejection of the petition.
5. Having considered the rival contentions put forth on either side and on perusal of record, what is apparent from the pleadings is that, the petitioner was initially engaged in May, 1993 and worked continuously up to August, 1994. Further, from the record it also reflects that the dispute for the first time was raised by the petitioner in the year, 2009 i.e. after more than 15 years. The award of the Labour Court as well as the evidence which have come on record does not show as to what the petitioner was doing in the intervening period and what prevented him from raising a dispute promptly. It is further reflected that the petitioner also does not have any cogent evidence to show that he had worked continuously for a period of 240 days in a calendar year

preceding the date of discontinuance.

6. Further, from the evidence and in the pleadings also it is an admitted position that the petitioner had worked between May, 1993 to August, 1994. It is also not a case where he has put a considerable length of service with the respondents to seek for a relief that he is otherwise seeking.
7. For the aforesaid reasons, this court does not find any illegality or infirmity on the part of the Labour Court while rejecting the claim application of the petitioner.
8. Accordingly, the petition fails and is dismissed. No order asto costs.

Sd/-
(P.Sam Koshy)
Judge

inder