

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 568 of 2016**

- Sunil Kumar Ghanshyam S/o Shri Bhimrao Ghanshyam, Aged About 40 Years
R/o Ward No.2, Bajrangpur Navagaon, Shanker Nagar, Rajnandgaon, Distt.
Rajnandgaon, (Chhattisgarh)

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Department of Urban Administration, Indrawati Bhawan, Naya Raipur, Distt. Raipur, (Chhattisgarh)
2. The Collector, Distt. Rajnandgaon, (Chhattisgarh)
3. The Commissioner, Municipal Corporation Rajnandgaon, District Rajnandgaon, (Chhattisgarh)

---- Respondents

For Appellant	: Shri Ashok Patil, Advocate
For Respondents No.1 & 2/State	: Shri R.K. Gupta, Dy. Advocate General
For Respondent No.3 / Corporation	: Shri Sourabh Sharma, Advocate

Hon'ble Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board**Per Thottathil B. Radhakrishnan, Chief Justice****11.07.2017**

1. We have heard the learned counsel for the appellant who is the writ petitioner. We have also heard the learned counsel for the Municipal Corporation and the learned State counsel.
2. The appellant's writ petition has been dismissed by the learned Single Judge. Hence, this appeal.
3. The appellant was removed from service by the Corporation. That resulted in a reference to the Labour Court under the provisions of the Industrial Disputes Act, 1947; for short, 'the I.D. Act'. That reference was answered holding that the appellant was entitled to reinstatement with 60% back-wages. That has become final. Presumably, clinging on to one official document in which the petitioner is

shown as a Peon, the writ petition was filed after certain representations were made to the Department. The plea was that he is eligible to be treated as a Peon and included in the seniority list of Peons. The learned Single Judge after considering the materials at the stage of admission, dismissed the writ petition.

4. We have also gone through the material documents produced by the appellant as part of the writ petition before the learned Single Judge. Annexure – P/1 therein is the decision of the Labour Court answering the reference made by the State Government under the I.D. Act. That reference was on the issue relating to the petitioner's allegedly illegal removal from the service. The facts and pleadings of the parties before the Labour Court and Annexure – P/1, decision of the Labour Court clearly shows that the petitioner was actually a Mazdoor and not a Peon. He was a cleaning staff in one of the Offices of the Municipal Corporation. With these factual situations, we cannot but hold that the order for reinstatement of service as a result of adjudication under the I.D. Act would ought to result in the petitioner's reinstatement only to the post from which he was removed. Perusing Annexure –P/1, we do not see any indication to the fact that the Labour Court ever intended that the petitioner should be reinstated as Peon and not as Mazdoor. Qualitatively, there is clear distinction between the category of Mazdoor and the category of Peon. The learned Single Judge after appreciating relevant facts concluded the writ petition against the petitioner. We, therefore do not find any legal infirmity or error in the judgment of the learned Single Judge. Hence, we do not see any ground to interfere with the writ petition.

5. In the result, this writ appeal is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge