

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 4995 of 2011**

Chhattisgarh State Civil Supplies Corporation Limited, Through its Manager,
Bal Ashram Campus, Kutchery Chowk, Raipur,

Current address:

Hitwada Parisar, Avanti Vihar, Raipur, District: Raipur (C.G.)

---- Petitioner

Versus

1. Presiding Officer (under ID Act), Labour Court, Raipur, District : Raipur (C.G.)
2. Santosh Kumar Janghel, S/o Shri Teghram Janghel, Gudhiyari (Kundrapara), Raipur,

Current Address:

Chandu Chikan Centre, Infront of Government School, Bazaar Chowk, Sant Kabir Das Ward No. 3, Gogaon, Raipur, District : Raipur (C.G.)

---- Respondents

For Petitioner	: Shri Kashif Shakeel, Advocate
For Respondents	: Shri Y.C. Sharma, Advocate.

Order On Board

18/04/2018

(1) Learned counsel appearing for the petitioner would submit that petitioner's application filed under Order 9 Rule 13 of the CPC has been rejected summarily without allowing him to file affidavit and even no enquiry was made on the application.

(2) On the other hand, counsel for the respondents would submit that the petitioner has not complied with the provisions contained in Section 17 (B) of the Industrial Disputes Act, 1997 and the impugned order dismissing the petitioner's

application under Order 9 Rule 13 CPC is strictly in accordance with law, which does not call for any interference.

(3) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also went through the record with utmost circumspection.

(4) A bare perusal of the impugned order and the material available on record would show that the petitioner's application under Order 9 Rule 13 CPC has been rejected without allowing him to file affidavit before considering the application, as such, there is no material to consider and dispose of the petitioner's application filed under Order 9 Rule 13 of the CPC; further the Labour Court did not make any enquiry before passing the impugned order. However, the award dated 06.12.2007 passed by the Labour Court was stayed by this Court by order dated 29.08.2011 but according to learned counsel for the respondent, no amount has been paid.

(5) In view of above, the impugned order dated 07.07.2011 is set aside. The matter is remitted to the Labour Court for deciding afresh after conducting enquiry within a period of 45 days from the date of receipt of certified copy of this order. It is also directed that the amount payable under Section 17(B) of the Industrial Disputes Act will be paid by the petitioner within a period of 30 days from today, if not paid, subject to filing affidavit by the respondent No. 2 before the petitioner within fifteen days.

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

Sd/-
(Sanjay K. Agrawal)
Judge

D/-