

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (L) No. 112 of 2008**

Ganesh Singh Rajput S/o Ratan Singh Rajput, aged about 40 years, R/o
Lakholi Naka, Town, Tahsil and District Rajnandgaon (CG)

---- Petitioner**Versus**

1. Presiding Officer, Labour Court, under I.D. Act, Rajnandgaon
2. District Forest Officer, Forest Division General, Rajnandgaon

---- Respondents

For Petitioner	:	None
For Respondent/State	:	Shri S. P. Kale, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order On Board****21/02/2018**

The present writ petition has been filed challenging the order dated 15.09.2006 passed by the Labour Court, Rajnandgaon in Case No. 35/I.D.Act/2004(Ref.). Vide the impugned order, the learned Labour Court has answered the reference holding that the termination of services of the petitioner was justified and that he was not entitled for any relief.

2. The grievance of the petitioner in the instant petition is that he had entered appearance before the Labour Court and given specific details that he had been engaged as a daily wage worker on the post of Chowkidar since 1994. He was given employment for 26 days in a month and he continued in employment till 16.01.2000 when his services were discontinued abruptly without giving any notice or intimation. He was not paid any retrenchment compensation or salary in lieu of notice period. The petitioner immediately raised an industrial dispute before the conciliation officer who in turn had referred the matter to the Labour Court where the terms of reference was

“Whether the termination of services of Ganesh Singh Rajput S/o Ratan Singh Rajput was proper and legal? If not, what relief he is entitled for and in this regard, what directions should be issued to the con-applicants?”

3. The petitioner herein filed a detail statement of claim giving nature of employment, place of posting and his abrupt and illegal termination w.e.f. 16.01.2000. The respondent Department also entered appearance before the Labour Court and filed their reply taking a specific plea of total denial of the contention raised in the statement of claim. The respondent Department had also taken the plea that the worker was engaged as and when there was availability of work. Since the substantive nature of work was that of a daily wager, the necessity of giving any notice before discontinuance or salary in lieu of notice was not required. The petitioner workman had also entered the witness box before the Labour Court and specifically deposed showing the different places where he was working while in employment with the respondent Department from 1994 to 16.01.2000. He further deposed before the Labour Court that he had worked uninterruptedly for 26 days a month from the beginning till his services were discontinued. Thus, he had worked for more than 240 days in a calendar year.

4. However, the respondent Department in spite of ample opportunities being given to them have chosen not to adduce any evidence before the Labour Court. In the absence of any evidence on the part of the respondent Department, the Tribunal closed the matter and passed the impugned order rejecting the claim application of the petitioner.

5. A perusal of the record would show that there is no evidence whatsoever on behalf of the respondent Department. On the contrary, there is evidence of the workman before the Labour Court which shows that he had worked for 240 days in a calendar year and had continuously worked from 1994 to 16.01.2000.

6. Given the aforesaid facts and circumstances of the case, the Labour Court should have taken an adverse inference against the employer as is done normally in most of the cases before the Labour Court. The same having not done so, the finding of the Tribunal does not seem to be proper, legal and justified. Since in the instance case there was no evidence on behalf of the employer, this Court is of the opinion that ends of justice would meet if the impugned order is set aside and the matter is remitted back to the Labour Court for a fresh adjudication of the case giving liberty to either side i.e. the workman as well as the respondent Department to adduce evidence in respect of their contention. It is ordered accordingly. The petitioner workman would also be at liberty for moving an appropriate application calling for any record if it was being maintained in respect of the employment of the petitioner before the Labour Court.

7. With the aforesaid observation, the impugned order is set aside and the matter is remitted back to the Labour Court for a fresh adjudication.

8. Needless to mention that the observations made by this Court should not be taken into consideration as an opinion in any form and the Labour Court shall be free to pass an order in the light of the evidence adduced by the parties before it in accordance with law.

9. The writ petition thus stands disposed of.

**Sd/-
(P. Sam Koshy)
JUDGE**