

HIGH COURT OF CHHATTISGARH AT BILASPURWPL No. 3229 of 2007

1. Chhattisgarh Infrastructure Development Corporation through the Managing Director, Shastri Chok, Raipur (C.G.).
2. State of Chhattisgarh, Transport Department through Transport Secretary, D.K.S.Bhawan, Raipur (C.G.).

---Petitioners

Versus

1. Smt.Nirupa Meshram Wd/o Late Bheem Rao Meshram.
2. Chowan Kumar Meshram S/o Late Bheemrao Meshram.
3. Ku.Asmita Meshram D/o Late Bheemrao Meshram.
4. Ku.Niranjana Meshram D/o Late Bheemrao Meshram.
5. Shailendra Meshram S/o Late Bheemrao Meshram.
6. Kishore Meshram S/o Late Bheemrao Meshram.
7. Vinit Meshram S/o Late Bheemrao Meshram.

Respondents No. 4 to 7 are minor through their natural guardian mother Smt.Nirupa Meshram.

All are R/o 595, Gudhiyari, Janta Colony, Raipur (C.G.).

8. Madhya Pradesh State Road Transport (Now Madhya Pradesh Road Transport Corporation) through - its Managing Director, Habeebganj, Bhopal (M.P.).

---Respondents

For petitioners	:	Shri Pallav Mishra on behalf of Shri R.N.Pusty, Advocate.
For respondents No.1 to 7	:	Shri Suresh Tandon, Advocate.

Hon'ble Shri Justice P. Sam KoshyOrder on Board23/01/2018

1. Present petition has been filed under Article 227 of the Constitution of India assailing the order of Labour Court, Bilaspur, Annexure-P/4 dated 27/10/2005 whereby the learned Labour Court has passed an order of

reinstatement without backwages and also challenge to the order of Appellate Court i.e. the Industrial Court, Raipur, Annexure-P/6 dated 20/06/2006 whereby the appeal preferred by the petitioners stood rejected affirming the order of Labour Court, Bilaspur dated 27/10/2005.

2. The brief facts of the case is that, the deceased employee involved in the present case is one Bheem Rao Meshram who was working as a cashier-Grade-II under the erstwhile Madhya Pradesh State Road Transport Corporation (In short "MPSRTC"). It is alleged that while discharging duties of the cashier, on 14/03/1995, certain cash was found short amounting to Rs.76,659.60/-. The employee immediately at the behest of the department is said to have given an undertaking of making good the short fall within 2 days i.e. by 16/03/1995, by which time he would deposit Rs.70,844.20/-. However, the employee did not honor the said undertaking and later on a chargesheet was issued to the employee on 31/05/1995 in respect of the alleged misappropriation of Rs.70,844.20/-. Subsequently, the departmental enquiry was also conducted and the charges was proved before the inquiry officer and the employee was imposed with the punishment of termination from service vide annexure-P/3 dated 21/08/1995.

3. This order of termination dated 21/08/1995 was subjected to challenge before the Labour Court, Bilaspur under Section 31(3) of the MPIR Act where the case was registered as case No.155/MPIR/95. The Labour Court vide order dated 29/08/2005 held that, the departmental enquiry conducted against the delinquent employee was in contravention to the principles of natural justice and therefore the departmental enquiry was held to be bad in

law and vitiated the same. Subsequent to the order of vitiating the departmental enquiry dated 29/08/2005, the petitioner corporation was granted time to lead evidence and prove the mis-conduct and charges before the Labour Court itself. However, the petitioner establishment failed to lead any evidence to prove the misconduct and charges levelled against the employee and thus, the order of termination was held to be illegal and bad in law and the order of reinstatement without backwages was passed. This order of reinstatement without backwages was put to challenge before the Industrial Court under Section 65 of the MPIR Act and the Industrial Court also vide its order dated 20/06/2006-Annexure-P/6 had rejected the appeal of the corporation upholding the award of the Labour Court of reinstatement without backwages. It is these two awards which is under challenge in the present Writ Petition.

4. What is relevant at this juncture to take note of is the fact that, the employee involved in the instant case meanwhile, before the Labour Court could pass an order on merits had died on 14/09/2001 itself. Hence, the question of reinstatement no longer survives.

5. Meanwhile, by virtue of the order of termination (Annexure P/3) that was passed, the department had already recovered/deducted an amount of Rs.70,844.20/- from the dues payable to the deceased employee. Subsequent to the allowing of the claim application before the Labour Court and also rejection of the appeal before the Industrial Court, the petitioner herein also deposited the entire amount on 09/06/2016 which they had

recovered from the dues payable to the deceased employee before this High Court as per order passed by this Court on 13/04/2016.

6. In view of the aforesaid facts and circumstances of the case and also on perusal of the order dated 13/07/2016 in this petition it reflects that, the contest on merits of the case has already been acquiesced by the petitioner and they have restricted their claim to the extent of liability part which according to the petitioner, it should not be upon them, but should be upon the respondent No.8-MPSRTC.

7. So far as the issue of liability as raised by the petitioner as per order dated 13/04/2016 is concerned, it would be relevant at this juncture to refer to the notification dated 16/02/2016 issued by the Transport Department of the Government of Chhattisgarh which is a clarificatory notification in respect of the assets and liabilities of the employees of the MPSRTC who have come within the purview of the petitioner corporation subsequent to the creation of new State. For ready reference, the notification dated 16/02/2016 reads as under:-

“No.F 6-8/II/8-Trans./02. - Whereas, this department vide its Notification No. F 6-8/II/8-Trans./02, dated 13th December, 2002 authorized Chhattisgarh Infrastructure Development Corporation (hereinafter referred to as CIDC) to receive the assets, liabilities, rights and employees obtained as a result of division of Madhya Pradesh State Road Transport Corporation;

Now therefore, in order to clarify the intension as to the words “to receive the assets, liabilities, rights and employees” mentioned in the said notification, the State Government, hereby, clarifies that all the assets, liabilities, rights and employees received by the Chhattisgarh State due to division of Madhya Pradesh State Road Transport Corporation shall be deemed to be subordinate to CIDC with effect from 13-12-2002 and all employees received from the said disintegrated Corporation shall be deemed to be absorbed in CIDC and CIDC shall be the employer;”

8. The plain reading of the said notification would clearly reveal that, the said notification was clarifying the notification earlier issued on 13/02/2002 dealing with the liabilities of the petitioner corporation in respect of the dispute pertaining to those employees against whom an action were initiated by the MPSRTC before creation of State of Chhattisgarh.

9. By implication of the clarificatory notification it has to be presumed that, all the employees who were on the rolls of State of Madhya Pradesh prior to the creation of State of Chhattisgarh and have subsequently by virtue of the litigation or in respect of the nature of dispute came within the purview of the petitioner corporation or within the territory of the State of Chhattisgarh would be deemed to be the employees of the petitioner corporation. From this it should also be presumed that such employees to have retired from the employment of Chhattisgarh Infrastructure Development Corporation.

10. In view of the same, this Court has no hesitation in holding the fact that, the liability so far as the deceased employee involved in the present case is concerned, it would be that upon the petitioner establishment alone.

11. Once when the State of Chhattisgarh had issued the clarificatory notification on 16/02/2016, the issue of liability part also stands squarely shifted upon the petitioner establishment alone and thus the present appeal being devoid of merits deserves to be and is accordingly rejected.

12. The amount lying before the registry of this Court can be released to the legal heirs of the deceased employee namely Bheem Rao Meshram, who in the instant petition are the respondents No.1 to 7.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE