

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 3904 of 2003**

Steel Authority of India Limited, Bhilai Steel Plant through the
Managing Director, Bhilai Steel Plant, Bhilai (CG)

---- Petitioner**Versus**

1. Kewal Chand S/o Tulchand alias Bishal village Murmunda, PO Gorhi,
District Durg (CG)
2. President, Industrial Court CG at Raipur
3. The Presiding Officer, Labour Court, Durg (CG)

---- Respondents

For Petitioner	:	Dr. Saurabh Kumar Pandey, Advocate
For Respondent no.1	:	Shri R. S. Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12.09.2018**

The challenge in the present writ petition is to the order of the Industrial Court dated 26.07.2003 whereby the appeal preferred by the petitioner challenging the order of the Labour Court was rejected.

2. The brief facts of the case in nutshell are that respondent no.1 was provided employment as a Khalasi with the petitioner way back in 1976 as a land displaced person (DPL candidate). Later on, it was found that respondent no.1 had obtained employment by playing fraud with the Management in as much as he had got employment by providing certain false information. The respondent employee was subjected to a disciplinary action and finally an order dated 12.12.1984 was passed whereby

respondent no.1 was inflicted with a punishment of reduction of two stages for two years with cumulative effect. Subsequently, the petitioner was provided with a fresh form of attestation to be filled up on 09.01.1985. In the said fresh attestation form also the petitioner is said to have made certain suppression of fact so far as the criminal antecedent is concerned. The charge against respondent no.1 was that while filling the fresh attestation form he had not disclosed the fact that there were two criminal cases in the past registered against him, one for the offence under Sections 147 & 452 of IPC and second being a proceeding under Section 107/116 of CrPC. The enquiry officer gave a report holding respondent no.1 guilty of the charges and finally the disciplinary authority passed an order of termination on 28.03.1987. The order of termination was subjected to challenge before the Labour Court under the provisions of CG Industrial Relations Act, 1960 and the Labour Court vide order dated 06.09.1990 held that the order of termination was bad in law and was disproportionate to the charges levelled. Accordingly setting aside the same passed an order of reinstatement without back wages.

3. The order of the Labour Court of reinstatement without back wages was challenged by either side before the Industrial Court under Section 65 of the CG Industrial Relations Act, 1960. The petitioner Management preferred an appeal against the order of reinstatement and respondent no.1 employee challenged the order for non granting of back wages. Both these appeals preferred by either side stood decided vide order dated 26.07.2003 whereby both the appeals stood rejected thereby confirming the order of reinstatement without back wages by the Labour Court.

Thereafter, the order of the Industrial Court was subjected to challenge before this Court by either side by two separate writ petitions. WP No.3869/2003 was preferred by respondent no.1 employee and the present writ petition was preferred by the petitioner Management challenging the order of the Industrial Court. The writ petition preferred by respondent no.1 employee i.e. WP No. 3869/03 came up for hearing before this Court on 08.11.2017. After considering the contentions of the parties, the writ petition finally stood rejected and this Court in its order has held that it does not find any good reason warranting interference with the impugned order of the Industrial Court as well as the Labour Court. The order passed in WP 3869/03 was subjected to challenge in a writ appeal i.e. WA No. 43/18 which again came up for hearing before the Division Bench of this Court on 07.08.2018 and the writ appeal too was finally dismissed thereby putting a further stamp of confirmation of the order of the Labour Court granting reinstatement without back wages.

4. Now the present writ petition of the Management before this Court is for consideration, assailing the same order one which has been affirmed by the Co-ordinate Bench of this Court in WPS No.3869/03 as also by the Division Bench.

5. After the order of the Labour Court dated 06.09.1990, in compliance to the provisions of Section 65(3) of the Act of 1960 which is pari materia to the provisions of Section 17B of the Industrial Disputes Act, the petitioner provided the last wage drawn to respondent no.1 employee and pending the petition before this Court, respondent no.1 employee has crossed the age of superannuation in August, 2008.

6. Having gone through the averments made in this writ petition and also taking note of the order passed by the Industrial Court as well as the Labour Court, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order of the Industrial Court dated 26.07.2003 passed in Appeal No. 531/MPIR ACT/1990. This Court is also reluctant to interfere with the impugned order for the reason that there are two concurrent finding of facts by the Labour Court as well as by the Industrial Court whereby the order of termination was held to be harsh and bad in law.

7. Given the said facts, the present writ petition deserves to be and is accordingly dismissed.

8. The only issue now left is what would be the consequential benefits which could be provided to respondent no.1.

9. Considering the entire factual scenario of the facts and also taking note of the fact that the petitioner had not reinstated respondent no.1 but were only complying with the provisions of Section 65(3) by paying the last wage drawn, this Court is of the opinion that applying the principles of “no work no pay” the petitioner would not be entitled for any monetary benefit for the period between the date of termination till the date of superannuation. However, respondent no.1 would be entitled for all actual monetary benefits so far as his retiral dues are concerned treating respondent no.1 as if the order of termination did not exist and respondent no.1 would be entitled for all those monetary benefits which a person immediate junior to him has drawn on the age of superannuation. Let this part be complied with by the petitioner at the earliest taking into

consideration the age of respondent no.1 within an outer limit of 60 days from the date of receipt of certified copy of this order. Respondent no.1 is also directed to ensure providing all necessary cooperation to the Management for settlement of his retiral dues.

**Sd/-
P. Sam Koshy
Judge**