

HIGH COURT OF CHHATTISGARH, BILASPUR
WP No.4985 of 2004

Superintendent Engineer (Power House-2) C.S.E.B. Korba
 (East), Korba

---- Petitioner

Versus

1. Member Judge, Industrial Court, Chhattisgarh Raipur Mahanadi Khand, Near D.K.S. Bhavan (Mantralaya) Raipur (CG)
2. Presiding Officer Labour Court, Bilaspur (CG)
3. Nandalal Sahu S/o Shri Palturam Sahu Through: General Secretary, M.P.E.B. Mazdoor Sangh Sakha, Korba
4. B.B.Roy, Labour Contractor, Through : Superintendent Engineer, M.P.E.B. Korba Now C.S.E.B.

---- Respondents

For Petitioner	:	Mr.N.K.Vyas, Advocate
For Respondent No.3	:	Mrs.Seema Singh, Advocate on behalf of Mr.Prabhakar Singh Chandel, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

2/1/2018

1. Nandlal Sahu/respondent No.3 herein filed an application on 8.1.1998 under Section 31(3) of the Chhattisgarh Industrial Relations Act, 1960 against the Madhya Pradesh Electricity Board, Korba and others. After reorganization of the State of Chhattisgarh and the Chhattisgarh Electricity Board, application for impleading and change of name was filed and the Chhattisgarh Electricity Board, Korba was impleaded as party non-applicant by order dated 24.5.2001, but thereafter no notice was issued to the petitioner herein/Chhattisgarh Electricity Board and ex-parte award was passed on 28.9.2001. Against which, the petitioner preferred an

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application for setting aside ex-parte award, which was rejected and appeal was also rejected. Against which, this writ petition has been filed by the petitioner herein.

- 2.** Mr.N.K.Vyas, learned counsel appearing for the petitioner, would submit that once the Chhattisgarh Electricity Board has been impleaded as party non-applicant in the said reference, the Labour Court ought to have issued notice and after hearing, the award could have been passed, but without issuing notice to the petitioner herein the Labour Court has passed the award, which is unsustainable and bad in law.
- 3.** On the other hand, Mrs.Seema Singh, learned counsel appearing for respondent No.3, would support the impugned order.
- 4.** I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the records with utmost circumspection.
- 5.** It is not in dispute that initially on 8.1.1998 reference petition was registered and notice was issued to the Madhya Pradesh Electricity Board by the Labour Court and after reorganization of the State of Chhattisgarh and the Chhattisgarh Electricity Board by order dated 24.5.2001 Chhattisgarh Electricity Board was impleaded as party non-applicant in the said reference, but it appears that no notice was issued to the Chhattisgarh Electricity Board and ex-parte award was passed on 28.9.2001. The award is passed against

Chhattisgarh Electricity Board and Chhattisgarh Electricity Board was never issued notice and Chhattisgarh Electricity Board was never heard by the Labour Court and thereby the petitioner Electricity Board has suffered prejudice. Once Chhattisgarh Electricity Board was made as party non-applicant, the Labour Court ought to have noticed and heard it and that constitutes sufficient cause within the meaning of Order 9 Rule 13 of the Code of Civil Procedure, 1908 for not appearing when the case was called out for hearing. Therefore, the impugned order is liable to be set aside. The Labour Court and the Industrial Court committed illegality in not setting aside the ex-parte award passed by the Labour Court.

6. Accordingly, the impugned order as well as the award passed by the Labour Court on 28.9.2001 is set-aside. The matter is remitted to the Labour Court, Korba for hearing and disposal strictly in accordance with law. The petitioner will file its written statement within two weeks from the date of appearance before the Labour Court that is 22.1.2018. The Labour Court shall decide the matter within three months from today after hearing the parties.
7. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-