

HIGH COURT OF CHHATTISGARH AT BILASPURWPL No.5872 of 2007

C.G. Infrastructure Development Corporation, Raipur (C.G.) through its Managing Director, Shastri Chowk, Raipur (C.G.).

---Petitioner

Versus

1. Muni Prasad Agnihotri S/o Surya Prasad, Conductor, R/o village Kadouha, Tahsil Katriya, District Rewa (M.P.) presently working as Assistant Grade-III, O/o Collectorate, Jashpurnagar (C.G.).
2. State of Chhattisgarh, Through its Secretary, Department of Transport, Mantralaya, D.K.S.Bhawan, Raipur (C.G.).
3. M.P.Road Transport Corporation, Through Managing Director, Head Office-Habibganj, Bhopal (M.P.).
4. State Industrial Court, C.G.Raipur, through its Registrar, Raipur (C.G.).

---Respondents

For petitioner	:	Shri Animesh Verma on behalf of Shri Ashish Shrivastava, Advocate.
For resp.No.2/State	:	Shri Gary Mukhopadhyay, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/01/2018

1. Present petition has been filed challenging the two orders passed by the Labour Court as well as by the Industrial Court where the claim application preferred by the respondent No.1 has been allowed and the appeal of the present petitioner before the Industrial Court has been rejected.
2. The solitary ground which the counsel for the petitioner raises in the present petition is that, both the Labour Court as well as the Industrial Court have failed to appreciate the fact that, the petitioner is not an industry under

the definition of Chhattisgarh Industrial Relations Act, 1960 (hereafter called as “**CGIR Act**”) and therefore the claim application of the respondent No.1 was not maintainable before the Labour Court and the Industrial Court also should have considered this aspect and should have allowed the appeal of the petitioner.

3. The undisputed fact in the instant case is that, the respondent No.1 was working with the erstwhile Madhya Pradesh State Road Transport Corporation (hereafter called as “**MPSRTC**”) and that while working as a conductor, his services was terminated on 15/05/2001. The alleged termination dated 15/05/2001 was subjected to challenge before the Labour Court under the provisions of Section 31(3) of the CGIR Act where the case was registered as case No.61/MPJR/2002. The Labour Court at the first instance have held that, the departmental inquiry which was conducted while removing the respondent No.1 from service was bad in law and was in contravention to the principles of natural justice. Therefore the Labour Court ordered the petitioner management to prove the mis-conduct by leading evidence in this regard.

4. Perusal of record show that in spite of ample opportunity being given to the petitioner management, they did not adduced any evidence to substantiate the charge or to prove the mis-conduct before the Labour Court and ultimately their right to lead the evidence was closed and the matter was decided by the order dated 24/09/2004 where the Labour Court passed an order of reinstatement without back-wages and the alleged order of recovery proposed against the respondent No.1 was also quashed.

5. The petitioner establishment subsequently preferred an appeal before the Industrial Court under Section 65 of the CGIR Act and the Industrial Court also considering the merits of the case dismissed the appeal filed by the petitioner vide annexure P/5 dated 03/09/2005 in case No.Civil Appeal No.258/CGIR Act/A-II/2004.

6. So far as the issue of the petitioner establishment not being the industry is concerned, if we look into the provisions of CGIR Act, it clearly reflects that, the provisions of CGIR Act shall apply upon all the industries which have been notified under the said act and Public Motor Transport is one of the industry which is a part of the notification right from 1966 onwards. There is absolutely no dispute as far as the fact that the respondent No.1 was not an employee of Public Motor Transport Corporation. The only disputed fact is that, subsequent to the creation of State of Chhattisgarh from 01/11/2000, erstwhile MPSRTC, the employer of the respondent No.1, does not exist and that the present petitioner has been appointed only as a Nodel Agency to look after the assets and liabilities which have fallen from the State of Madhya Pradesh to the State of Chhattisgarh.

7. It is also pertinent to take note of the fact that, the order of termination in the instant case have been issued in the State of Chhattisgarh. This Court fails to understand as to how the petitioner has been able to take a stand that they are not the employer of respondent No.1. Even if, the CIDC was appointed as a Nodel Agency, but for all practical purposes, it stepped into the shoes of the employer i.e. erstwhile MPSRTC in respect of employees

who have been allocated to the State of Chhattisgarh who were initially the employees of the MPSRTC.

8. From perusal of the record what clearly reflect is that, on the date of termination i.e. 15/05/2001, the respondent No.1 was working under the erstwhile MPSRTC which subsequently was merged with the CIDC in as much as the State of Chhattisgarh did not intended to have a State Road Transport Corporation and all the assets and liabilities which fell from the MPSRTC to the State of Chhattisgarh was handed over to the CIDC which was made a Nodel Agency to manage.

9. Given the aforesaid factual matrix of the case, there is absolutely no doubt that, the CIDC would not be an industry. Even otherwise, this issue also stands squarely covered by the landmark decision of the Hon'ble Supreme Court in the case of **Bangalore Water Supply & Sewerage Board Vs. A.Rajappa & Ors. [{1978} 2 SCC 213]**.

10. As regards the merits of the case, this Court does not find any strong case made out by the counsel for the petitioner for the reason that, the petitioner though have raised so many objection in their pleadings, but have not adduced a single witness before the Labour Court to substantiate there contention. Moreover, even after the departmental inquiry was vitiated by the Labour Court and the petitioner management was granted an opportunity to prove the mis-conduct before the Labour Court by leading a fresh evidence to prove the charges levelled against the respondent No.1, the petitioner have measurably failed in discharging their responsibilities.

11. Given the aforesaid facts and circumstances of the case so also keeping in mind the fact that, pursuant to the order passed by the Labour Court as early as in the year 2004, the respondent No.1 must have been taken back in employment in compliance to the provisions of Section 65(3) of the CGIR Act and that would show that the respondent No.1 by now must have been put in more than 13 years of service.

12. Thus for all these reasons, this Court does not find any good ground made out by the petitioner calling for an interference with the two orders passed by the Labour Court as well as by the Industrial Court.

13. The appeal thus fails and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit