

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (L) NO. 2325 OF 2008

Sadhu, S/o Shri Aayat, aged about 37 years, R/o Village Aamdih, Post Vishrampur, Kondagaon, District Bastar (C.G.)

... Petitioner

versus

Divisional Forest Officer (General), North Forest Division, Kondagaon, Bastar (C.G.)

... Respondent

For Petitioner	:	Mr. Pankaj Agrawal, Advocate.
For Respondent	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/01/2018

1. The present writ petition under Article 227 of the Constitution of India has been filed by the petitioner assailing the order dated 30.4.2007 passed by the Labour Court, Jagdalpur, in Civil Case No. 06/I.D./Ref./04.
2. The State Government had made a reference to the said Labour Court under the provisions of the Industrial Disputes Act, 1947, on the following terms of reference:

“Whether the termination of service of Shri Sadhu S/o Shri Ayatu is legal and proper? If not, to what relief he is entitled for, and what directions should be issued to the employer in this regard?”
3. The Labour Court considering the evidence which have come on record, reached to the conclusion that the petitioner herein, *i.e.*, the worker, has not been able to establish his case so far as he being in continuous employment with the respondent and also found that the nature of employment of the petitioner was also not in accordance with the rules of recruitment in the department neither was it under any of the constitutional scheme applicable in the respondent-department and thus rejected the claim of the petitioner, leading to the filing of the present writ petition.

4. Learned counsel for the petitioner submits that the petitioner had moved an application before the Labour Court for admission of the documents by the respondent-management to which they did not come forward and therefore an adverse inference ought to have been viewed against the respondent and the discontinuance of service should have been treated as an illegal termination and the order of reinstatement should have been passed.

5. However, perusal of record would show that the substantive appointment of the petitioner and the period during which he had worked with the respondent was that of a daily wage worker. It is by now well settled position of law that a daily wage worker as such does not have a substantive right. The petitioner has also not been able to establish as to whether his appointment was in accordance to the recruitment rules or under any of the constitutional scheme.

6. In the event of there being no substantive proof of the nature of his employment and the admission on his part of his being a daily wage worker, the finding of the Labour Court cannot be said to be either bad in law or erroneous and therefore this Court has no hesitation in reaching to the conclusion that the finding arrived at by the learned Court below is based on the factual matrix which have been brought on record by the parties and the same thus becomes a finding of fact. This Court thus is of the opinion that it is not a fit case calling for an interference with the impugned award.

7. The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge