

HIGH COURT OF CHHATTISGARH AT BILASPURWPL No. 243 of 2018

Axon Construction Pvt. Ltd. Represented By Its Authorised Signatory
Mr. G. Narayan, Assistant Manager, 2nd And 3rd Floor, 14 Dr. Giriappa
Road, T. Nagar, Chennai-600017.

---Petitioner

Versus

1. Shri Mohendra Kumar Sahu S/o Shri Goverdhan Singh Sahu, Aged About 43 Years R/o Q. No. Lig 40, Pt. Ravishankar Shukla Nagar, Korba, Tahsil And District Korba, Chhattisgarh.
2. Rkm Powergen Pvt. Ltd. Through Its Director, At Village Uchchpinda, Tahsil Dabhra, Post Dhurkot, District Janjgir Champa, Chhattisgarh.
3. The Presiding Officer, Labour Court, Under I.D. Act Janjgir Champa, Chhattisgarh.

---Respondents

For petitioner : Shri Ajay Pal Singh and Shri Vipin Tiwari ,
Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/12/2018

1. The present Writ Petition has been filed assailing the impugned order dated 14/11/2018 whereby the application on behalf of the petitioner establishment for recalling of the respondent No.1 – employee before the Labour Court for further cross-examination has been rejected.
2. The facts of the case in brief is that, the respondent No.1 had raised an industrial dispute in respect of his services being terminated by the petitioner establishment and the State Government made a reference to the Labour Court, Janjgir where the case was registered as case No. 38/ID-A/15 (ref).

3. After the pleadings were complete, the evidences were recorded and the respondent No.1 – workmen was examined before the Court below on 13/07/2017. Thereafter, the matter was fixed for the evidence of non-applicant i.e. the petitioner. The management also adduced its evidence on 11/07/2018 and thereafter the matter was fixed for final hearing on 12/09/2018.

4. Meanwhile, the petitioner management could lay hand on certain documents which establishes that the workmen – respondent No.1 was gainfully in employment elsewhere and which runs in contravention to his statement that he has made before the Labour Court that he has not gainfully employed anywhere from the time of his discontinuance from service by the petitioner establishment.

5. On receiving this information, the petitioner/management immediately on 12/09/2018 itself moved an application requesting the Court to permit the petitioner for recalling the respondent No.1 for further cross-examination in the light of subsequent material which they have been able to collect to establish the fact that the petitioner is presently in employment elsewhere.

6. The Labour Court took the application on record and granted time to the respondent No.1 to file reply. The respondents however did not file any reply and the matter was fixed for hearing on 11/10/2018 on which date they again took time and the matter stood adjourned for 14/11/2018.

7. On 14/11/2018, the counsel for the workmen made a statement before the Labour Court that he does not intend to file any reply to the application

and the Labour Court after hearing the parties passed the impugned order on the same day i.e. on 14/11/2018 itself rejecting the application of the petitioner.

8. The contention of the counsel for the petitioner is that, the document which the petitioner have received subsequently is a substantial document to show that the petitioner was gainfully an employee elsewhere and the said document would establish that the statement that he has given before the Labour Court was a false statement. He further submits that no prejudice whatsoever would had been caused if the Labour Court would have called the respondent No.1 for further evidence on this limited piece of material which the petitioner had collected subsequently. He thus prayed that the impugned order be interfered to that extent and an appropriate direction be passed.

9. Considering the total factual matrix of the case this Court is of the opinion that, no fruitful purpose would be served in keeping the Writ Petition pending at this juncture, admitting the Writ Petition and keeping it pending would further delay the reference case in its final adjudication.

10. Under the circumstances, this Court is of the opinion that the Labour Court could have taken a more pragmatic view and could have allowed the application after imposing some cost upon the petitioner by calling the worker for further cross-examination. This could have been more in the interest of substantial justice.

11. In view of the same, this Court is of the opinion that the impugned order to that extent passed by the Labour Court on 14/11/2018 is bad in law and is unsustainable and the same deserve to be and is accordingly set-aside/quashed.

12. It is ordered that the concerned Labour Court shall now allow the application of the petitioner and shall call upon the respondent No.1 for further cross-examination with a condition that on that date when the respondent No.1 approaches the Court the case shall be taken up and his evidence shall under any circumstances be recorded with no further adjournment provided to the petitioner.

13. It is also ordered that the petitioner shall also pay a cost of Rs. 2,500/- to the respondent No.1 as cost for being called for evidence for the second time and the petitioner are directed to ensure that the cost is paid to the respondent No.1 on the next date of hearing i.e. on 09/01/2019 itself.

14. With the aforesaid directions, the Writ Petition stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit