

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 7099 of 2011**

State of Chhattisgarh through the Executive Engineer, Public Works Department, Khairagarh, District Rajnandgaon, Chhattisgarh
 Represented through Shri H. R. Dhruw S/o Shri Dhruw, presently posted as Executive Engineer, Public Works Department, Khairagarh, District Rajnandgaon (CG) and OIC of the case for petitioner/State

---- Petitioner**Versus**

Dheeraj Das S/o Rohan Das, R/o village Chindari, Post Chuikhadan, Tahsil Chuikhadan, District Rajnandgaon (CG), R/o C/o through Shri Navjeet Kumar Raman, advocate, 25/12, Nehru Nagar (West) Bhilai, District Durg (CG)

---- Respondent

For Petitioner/State	:	Mr. Chandresh Shrivastava, Dy. A.G.
For Respondent	:	Mr. Anup Majumdar, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23.08.2019**

1. The challenge in the present writ petition is to the order of the State Industrial Court dated 25.01.2011 Annexure P-1 passed in Civil Appeal No. 32/CGIR Act/A/II/2008. Vide the said order the learned Industrial Court has dismissed the appeal of the State Govt. and affirmed the order passed by the Labour Court on 10.03.2008 whereby the Labour Court had granted the relief of reinstatement in service with 50% back wages.

2. Perusal of the record would show that the said order of the Industrial Court under challenge is a common order in respect of 5 different workers. The State had preferred writ petition in each of the cases. Two of the writ petitions i.e. WPS No. 7096/2011 and WPS No. 7347/2011 preferred by the State Govt. challenging the same order of the Industrial Court dated 25.01.2011 have since been rejected vide order dated 01.08.2018.
3. In view of the fact that two of the writ petitions challenging the same impugned order have already been decided and rejected, this Court is of the opinion that the present writ petition also deserves to be decided on the same grounds.
4. Another reason why this Court is reluctant to entertain the present writ petition is that from perusal of the record it appears that the worker had initially got an order of reinstatement in his favour as early as on 30.09.2002. The State thereafter reinstated the worker i.e. the respondent herein vide order dated 30.03.2005. The petitioner from 30.03.2005 till date is working under the respondents continuously and uninterruptedly. Thus, he has put in more than 14 years of service even after reinstatement.
5. Today, when the matter is heard, counsel for the respondent worker makes a statement that he has instruction to state that in July, 2019 the Department has also regularized the services of the respondent-worker.
6. However, considering the fact that the substantive engagement of the worker all along was that of a daily wage worker who was engaged

purely on the availability of work and the wages were also paid for the period he was engaged, the question of grant of back wages does not arise. Moreover, admittedly the petitioner, during the intervening period, had not worked and therefore, for the said period, applying the principles of “no work no pay”, the order of the Labour Court so far as grant of 50 % back wages is concerned and which has also been affirmed by the Industrial Court is not sustainable and the writ petition to that extent stands allowed inasmuch as the order of granting of 50% back wages stands set aside/quashed.

7. In view of the aforesaid factual matrix of the case, this Court is not inclined to interfere with the findings of the learned Industrial Court so far as reinstatement part is concerned. However, the granting of 50% back wages being not justified, the same stands set aside/quashed.
8. The writ petition accordingly stands partly allowed.

Sd/-
P. Sam Koshy
Judge