

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 1316 of 2019

Purushottam Lal Rathore S/o Shri Khamhan Prasad Rathore, Aged About 58 Years, Occupation - Daily Wager Employee, R/o Village Ratan Mahka, Post Dhadhra, P.S. And Tahsil Kharsia, District Raigarh, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Urban Administration, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur, Chhattisgarh.
2. The Nagar Palika Nigam, Through Municipal Council Kharsia, Raigarh, District Raigarh, Chhattisgarh.
3. Avar Sachiv, Department Of Urban Administration, Mahanadi Bhawan, Mantralaya Atal Nagar, New Raipur, District Raipur, Chhattisgarh.
4. The Presiding Officer Labour Raigarh, District Raigarh, Chhattisgarh.

---Respondents

For petitioner	:	Shri Manoj Kumar Jaiswal, Advocate.
For State	:	Shri Saleem Kazi, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/02/2019

1. The petitioner through the instant Writ Petition is seeking for compliance of the order – Annexure-P/1 dated 10/12/2018.
2. The facts of the case in brief is that, the petitioner initially was engaged as a Daily Wage Employee by the respondent No.2 and was working as “Pump Operator” from 1990 to 01/11/2003. Thereafter the services of the petitioner stood discontinued.

3. The discontinuance of the petitioner was challenged by way of dispute under the Industrial Dispute Act and the matter was referred to the Industrial Court, Raigarh where the case was registered as case No. 5/ID Act/2005/Ref.

4. The Labour Court finally vide its award dated 23/02/2006 passed an order of reinstatement in service in favour of the petitioner.

5. For a considerable period of time, the petitioner was not taken back in service by the respondents. This led to the petitioner filing a Writ Petition before this Court under Article 226 of the Constitution of India as WPS No.5745/2018. This Court disposed off the said Writ Petition on 04/09/2018 holding as under:-

“3. From the records it appears that there is an order in favour of the petitioner and the present petition has been filed only seeking forexecution of the award passed by the Labour Court which this court is of the opinion that the same may not be sustainable under Article 226 of the Constitution of India.

4. Reserving the right of the petitioner to avail the remedy available under the provisions of Section 33(C)(2) of the Industrial Disputes Act on the basis of the order in his favour and also seeking initiation of prosecution against the erring officers for not complying the Labour Court's award under Section 29 of the Industrial Disputes Act before the competent authority, the present petition stands disposed of.”

6. The petitioner subsequently is said to have approached the authorities who in turn have passed an order of reinstatement in his favour vide order

dated 24/12/2018 and the petitioner has been taken back as Daily Wage Employee on temporary basis against the post of "Pump Operator".

7. Subsequently, the respondent/State has passed an order on 10/12/2018 creating supernumerary post of Pump Operator of pay-scale 5200-20200 + G.P.2400/-. Now the petitioner has filed the instant Writ Petition seeking for execution of the said order dated 10/12/2018.

8. This Court at the outset finds it difficult to grant the relief sought for, the reason that, the petitioner substantively was a Daily Wage Employee. He stood discontinued as Daily Wage Employee. The order of the Labour Court was to take him back in his original position i.e. as a Daily Wage Employee. The respondents vide their order dated 24/12/2018 also have taken the petitioner back in service as a Daily Wage Employee.

9. Under the circumstances, this Court does not find any strong case made out on part of the petitioner by which a Writ could be issued to the respondents directing them to release the pay-scale as envisaged in Annexure-P/1 dated 10/12/2018, even though the said order bares a reference of Writ Petition (S) No. 5745/2018.

10. In the given facts, the instant Writ Petition in its present form stands dismissed.

11. However, the respondents would be at liberty to consider the case of the petitioner for regularization in the light of the past services that the petitioner has rendered and also considering the order of reinstatement in

his favour by the Labour Court and thereafter the petitioner would be entitled for an appropriate benefit.

12. With the aforesaid directions, the Writ Petition stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit