

HIGH COURT OF CHHATTISGARH AT BILASPURWPL No. 28 of 2019

Bharat Tiwari Vidydyhut Karmachari Sangh (Federation Registration No. 56, C/o P 45- Kavita Nagar, Post Office Shankar Nagar, Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. Sudhir Nayak Vidydyhut Karmachari Sangh (Federation Registration No. 56, R/o 8/62, Gandhi Chowk Chotapara, Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Chhattisgarh State Industrial Court Main Bench, Ghari Chowk Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For petitioner : Mr. J. K. Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/02/2019

1. The present writ petition has been filed questioning Annexure P-1 dated 06/02/2019. The impugned order is one which has been passed by a Stenographer of the Industrial Court, Raipur whereby the case pending before Industrial Court has been adjourned for want of the Member Judge as the previous member Judge has retired w.e.f. 31/01/2019.
2. At this juncture it would be relevant to take note of the rules governing the field that is ; 'Industrial Court formation of Benches Rules, 2005'.
3. Rule 9 of the said Rules of 2005 reads as under :

“9. If at any time the President or the member is unable to function for any reason whatsoever, then notwithstanding anything contained in these Rules, the President or the member

alone, as the case may be, shall have all the powers vested
under these Rules in a Bench of more than one member.”

4. Given the said facts as has been stated by the petitioner in the absence of member Judge available in the Industrial Court on account of post falling vacant on the previous member Judge retired on 31/01/2019 for all practical reasons invoking rule 9 quoted above the cases which were allotted to then available member judge should be recalled by the President and the proceedings should be drawn by the President himself till the regular member Judge is available. Whereafter the President can allot the matter to the newly appointed member Judge if required.

5. It is not expected that the cases pending before the Bench in which the presiding member Judge has retired should be left unattended since an alternative arrangement is available in the Industrial Court and the President has all the powers for hearing the disputes.

6. The President of the Industrial Court is therefore ordered that all the cases which were allotted to member Judge who has retired since 31/01/2018 may be called back by the President to be heard by himself till an alternative arrangement is available.

7. With the aforesaid observations the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
JUDGE