

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (L) No. 2506 of 2010

1. Umendi S/o Sawant Lodhi, aged about 42 years,
2. Dularu S/o Amar Lal Lodhi, aged about 43 years.
3. Genduram S/o Sawatram Lodhi, aged about 36 years.
4. Bairha S/o Ramji Lodhi, aged about 37 years.
5. Duvasu S/o Adhin Lodhi, aged about 42 years
6. Padumlal S/o Shri Ghondhu, aged about 42 years
7. Koduram S/o Mehattar Lodhi, aged about 36 years
8. Sukalu S/o Budhram Lodhi, aged about 35 years.

All R/o Birutola, Tahsil Chuikhadan, District Rajnandgaon (CG).

---- Petitioner(s)

Versus

1. The Presiding Officer, Labour Court Rajnandgaon (CG).
3. Executive Engineer, Water Resources Department, Chuikhadan, Tahsil Chuikhadan, Distt. Rajnandgaon, CG.
2. Sub Divisional Officer, Pipariya Sub Division Water Resources Department Chuikhadan, Distt. Rajnandgaon, CG.

---Respondents

For Petitioner	:	Shri Basant Dewangan, Advocate.
For State	:	Ms. Abhyunnati Singh, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09.08.2019

1. Challenge in this petition is to the award dated 08.04.2009 passed by the Labour Court, Rajnandgaon, in case No.17/ID Act/2007 (Ref.)
2. Perusal of record would show that the award passed by the Labour Court dated 08.04.2009 is one which is primarily in favour of the petitioners whereby the Labour Court has granted the relief of reinstatement without backwages, however, the portion of the award by which the petitioners are aggrieved is the observation of granting reinstatement subject to availability of work.

3. This court prima facie is of the opinion that it goes without saying that a daily wage employee is always engaged subject to availability of work. Even if it would not had been observed by the Labour Court, a daily wage employee could had been retained by the department only in the event of there being availability of work. In the absence of availability of work or in a situation where the work against which a worker are engaged having been either completed or closed, there cannot be a direction issued by any court of court forcing the department to continue providing employment to a daily wage worker.
4. Under the circumstances, this court is of the opinion that there is no illegality on the part of the Labour Court in passing the said award. However, as far as the order of reinstatement subject to availability of work is concerned, it is always open for the worker concerned to approach the authorities in the event of availability of work and in the event of availability of work, the respondents also are supposed to engage the worker taking into consideration firstly the award passed by the Labour Court and secondly the experience that they have put in the past.
5. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge