

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (L) No. 5037 of 2010

1. Harish Chandra S/o Johru Ram Gond, aged about 42 years, R/o Village Bakledi, Tehsil Dongargarh, District Rajnandgaon (CG).
2. Kanwal S/o Shankar Gond, aged about 42 years, R/o Village Bakledi, Tahsil Dongergarh, Distt. Rajnandgaon (CG).
3. Mahesh S/o Kartik Lodhi, aged about 42 years, R/o Village Saloni, Tahsil Dongergarh, Distt. Rajnandgaon (CG).
4. Panch Ram S/o Phagu Ram, aged about 42 years, R/o Village Jagnathpur, Tahsil Dongergarh, Distt. Rajnandgaon (CG).
5. Jeevrakhan S/o Suna Ram, aged about 41 years, R/o Village Dhara, Tahsil Dongergarh, Distt. Rajnandgaon Cg
6. Manglu Ram S/o Jagat Lodhi, aged about 43 years, R/o Village Saloni, Tahsil Dongergarh, Distt. Rajnandgaon (CG).
7. Amar S/o Punav Lodhi, aged about 40 years, R/o Village Saloni, Tahsil Dongergarh, Distt. Rajnandgaon (CG).
8. Sagur S/o Nathu Ram, aged about 42 years, R/o Village Dhara, Tahsil Dongergarh, Distt. Rajnandgaon (CG).
9. Tula Ram S/o Lodhi Ram, aged about 42 years, R/o Village Dhara, Tahsil Dongergarh, Distt. Rajnandgaon (CG).

---- Petitioner(s)

Versus

1. Executive Engineer Water Resources Division, Rajnandgaon, District Rajnandgaon (CG).
2. Sub Divisional Officer Water Resources Department, Dongargarh, Distt. Rajnandgaon (CG).
3. Balram S/o Sukhi Ram Lodhi, aged about 40 years, R/o Village Patandur, Post Mohara, Tahsil Dongargarh, Distt. Rajnandgaon (CG).
4. Manohar S/o Maksudan Vaishnav, aged 42 years, R/o Village Patandur, Post Mohara, Tahsil Dongargarh, Distt. Rajnandgaon (CG).
5. Kamlesh S/o Shankar Lodhi, aged 41 years, R/o Village Saloni, Post Dhara, Tahsil Dongargarh, Distt. Rajnandgaon (CG).

---Respondents

For Petitioners	:	Ms. Hameeda Siddiqui and Shri Sumit Singh Rathore, Advocates.
For State	:	Shri Sameer Behar, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16.07.2019

1. Challenge in this petition is to the award dated 07.10.2009 (Annexure P/1) passed by the Labour Court Rajnandgaon in case No.13/ID Act/2007/Ref. Vide the said award, the Labour Court has answered the reference in the

negative holding that the petitioners are not entitled for any relief as their alleged discontinuance from service was neither illegal nor bad in law.

- 2.** The facts of the case is that, the petitioners in the year, 2007 raised an industrial dispute alleging that they had worked under the respondents department from 1985 to 1998 and when they were abruptly discontinued from service. According to the petitioners, before discontinuance from service they were neither given any notice nor was they issued with any show cause notice, neither were given retrenchment compensation as is required under the provisions of Industrial Disputes Act, 1947 (in short, the Act, 1947). It was further the contention of the petitioners that though the respondents have discontinued the services of the petitioners, but at the same time, they have retained many other similarly placed persons in service and who have subsequently been regularized by the department therefore, the action on the part of the respondents amounts to arbitrary action and violative of Article 14 of the Constitution of India.
- 3.** The counsel for the petitioners further submits that all the petitioners before this court had entered appearance before the Labour Court and have given evidence in respect of their working under the respondents between 1985 to 1998 which too has not been properly appreciated by the Labour Court while passing the award. Thus, prayed for setting aside of the impugned award.
- 4.** The counsel appearing for the respondents-State however opposing the petition submits that a plain reading of the impugned award itself would show that the award is a well reasoned and speaking award and it does not warrant any interference. He further contended that the scope of interference in the given award is also too limited as there is no perversity in the award which could be pointed out by the petitioners.

5. According to the State counsel, since the petitioners did not have any indefeasible right in their favour in the capacity of daily wage employee, there was no illegality on the part of the respondents in discontinuing the services without following the mandatory requirement as is required under Chapter-V of the Act, 1947. Thus prayed for rejection of the writ petition.
6. Having heard the contentions put forth on either side and on perusal of records, particularly taking note of the fact that before the Labour Court except for the oral submission made by the petitioners, there was no documentary proof adduced by the petitioners to substantiate their contentions. Neither does from the pleadings it appears that the petitioners had moved an application for production of documents against the respondents with which an adverse inference could have been drawn. The petitioners also do not seem to have approached the authorities under Right to Information Act seeking for the documents to establish their engagement with the respondents. On the contrary, the respondents department has led evidence of one S.K. Sahare who has categorically stated that the services of the petitioners were engaged intermittently on availability of work. It was further stated by the said witness that the petitioners who were engaged as daily wage employee were paid the wages for the period they were engaged and thereafter their services stood automatically discontinued.
7. Perusal of award would further reveal that the Labour Court while passing the award had taken note of the various judgments passed by the Supreme Court as well as by the different High Courts in respect of the right of a daily wage employee and the manner in which the daily wager has to prove his case before the Labour Court. The Labour Court also has extensively dealt with the evidence which have come on record.

8. It is by now well settled law that this court in exercise of powers under Article 226 of the Constitution of India while deciding the matter arising out of the Labour Court/Industrial Court would not sit as an appellate body over the Labour Court's finding. The limited scope that this court has under Article 226 is to see the decision making process and not the decision itself. It has been repeatedly held by the Supreme Court that the High Court would interfere with the findings of Labour Court only in the event if the finding is apparently perverse or is in total contravention to the evidence which has come on record or is also contrary to the rule provision or statute.
9. Reading of the award would show that the findings given by the Labour Court is purely finding of fact based on the evidence which has been adduced by the either side before the Labour Court. In addition to the finding being based on the evidence, the finding also is supported with judicial pronouncement of the Supreme Court as well as different High Courts.
10. Under the circumstances, this court does not find any strong case made out by the petitioners calling for an interference with the impugned award dated 07.10.2009 passed by the Labour Court.
11. Accordingly, the writ petition fails and is dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder