

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 91 of 2019**

1. Shri Bajrang Power And Ispat Limited TMT Division Regd Office Village Gondwara, Urla, Industrial Area, Raipur Chhattisgarh. Through Manager (Hr)
2. Manager (Human Resources) Shri Bajrang Power And Ispat Limited, TMT, Division, Village Gondwara, Urla Industrial Area, Raipur Chhattisgarh.
3. Employer Shri Bajrang Power Ispat Limited TMT Division Regd. Office, Village Gondawara, Urla Industrial Area, Raipur Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Labour Commissioner, Block 3, IInd Floor, Indrawati Bhawan, Naya Raipur Chhattisgarh
2. Parmeshwar Sahu S/o Shri Gopichand Sahu R/o Dr. Rajendra Nagar, Guru Ghasidas Ward No. 1, Urla Raipur Chhattisgarh
3. Deputy Labour Commissioner Block -3, IInd Floor, Indrawati Bhawan Naya Raipur Chhattisgarh

.....Respondents

For Petitioners	:	Mr. Shiv K. Sahu on behalf of N.K. Vyas, Advocate
For State/Respondents	:	Ms. Shriya Mishra, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/04/2019**

1. The challenge in the present writ petition is to the Order Annexure P-1 which is reference order to the Labour Court, Raipur to decide the terms of reference; "Whether the termination of service of the worker Shri Parmeshwar Sahu, S/o Gopichand Sahu was proper, legal or not, if not, what relief the petitioner/applicant is entitled for?" and what directions could be issued to the employer in this regard? The counsel for the petitioner has challenged the aforesaid terms of reference issued by the respondent no. 3 only primarily on the ground that the terms of reference is not proper.

2. According to the learned counsel for the petitioner, the stand of the management petitioner all along was that the petitioner has never been terminated but he continues as an employee of the petitioner establishment. It was only an Order of Transfer which was issued in favour of the respondent no. 02 which later on has been projected as an order of termination by the worker.
3. Given the aforesaid facts what is evident from the pleadings is that admittedly the respondent no. 02 is an employee under the petitioners. He has raised a dispute alleging that the petitioners have terminated his services. On the contrary, the petitioners submit that they have not terminated the respondent No. 02 rather they have only transferred the respondent No. 2 from one place to another. The appropriate authority has made a reference to the Labour Court to decide whether the termination of services of the respondent No. 02 is proper, legal or justified.
4. In view of the aforesaid admitted factual position once when the Government has made a reference to the Labour court to decide the terms of reference, this Court is of the opinion that to decide the issue whether the respondent No. 02 has been terminated by the petitioners or not, whether the respondent No. 02 only stands transferred is an issue which can be decided only on adducing of appropriate evidence by disputing parties before the Labour Court.
5. Thus, this Court does not intend to keep this writ petition pending by admitting the same and taking into consideration the larger interest of justice, ends of justice would meet if the writ petition is disposed off with a direction to the Labour Court to permit the petitioners to adduce evidence in respect of their stand that they take of the respondent no. 02

not having been terminated and they have only been transferred and at the same time permitting the respondent No. 02 in rebuttal to lead evidence that is petitioners in fact have terminated him from services.

6. Let the Labour Court proceed further and decide the reference based upon the evidence that is adduced by either side wherein each party would be permitted to adduce in respect of their stand that they have taken in the instant claim and their written statement respectively and finally the answer award based on the evidence on the either side at the earliest.
7. With the aforesaid observation and term, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge