

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No. 501 of 2018

Chief Municipal Officer, Nagar Panchayat Gandai Through Yogeshwar Upadhyay S/o Deendayal Upadhyay, Aged About 40 Years, Presently Working As CMO Gandai, District Rajnandgaon Chhattisgarh.

---- Appellant

Versus

1. Smt. Gayatri Bai Rajput D/o Late Pitambar Singh, Aged About 44 Years R/o Musalman Mohalla, Near Masjid, Ward No. 9, Gandai, Block Chuhikhadan District Rajnandgaon Chhattisgarh.
2. The Presiding Officer, Labour Court Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Respondents

For Appellant	:	Mr.P. R. Patankar, Advocate.
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For respondent No.1	:	Mr. Hemant Kesharwani, Advocate
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Hon'ble Shri Ajay Kumar Tripathi, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

Per Ajay Kumar Tripathi, Chief Justice

15/02/2019

1. Heard learned counsel for the appellant and learned counsel for the respondent No.1.
2. Appeal is directed against the order dated 13.2.2018 because the learned Single Judge dismissed the writ application refusing to go into the merits of the award for the simple reason that the employer has refused to comply with the statutory requirements under Section 17B of the Industrial Disputes Act.

3. Learned Single Judge has recorded the following facts :-

“4. It is settled position of law that when an employer prefers a petition challenging the order of reinstatement before an higher Court, the provisions of Section 17B of the Industrial Dispute Act is mandatorily to be complied with. This Court on 16.01.2018 had granted time to the petitioner to verify and intimate whether the petitioner has taken any step towards the compliance of Section 17B of the Industrial Dispute Act or not? The petitioner failed to provide any information in this regard, when the matter was listed on 17.01.2018 and again on 18.01.2018. Thereafter the matter was adjourned again for the same purpose for 17.02.2018. On which date also the petitioner was unable to show whether they have been able to show compliance of Section 17B of the Industrial Dispute Act.

5.It is noteworthy to mention that on 18.01.2018, this Court had also granted time to the petitioner to show their bonafides by taking fresh steps towards compliance of section 17B of the Industrial Dispute Act. Even then, when the matter is called today, the counsel for the petitioner expresses his inability to show the compliance part as is required under Section 17B of the Industrial Dispute Act.

6. The said conduct on the part of the petitioner itself shows an act of highhandedness on the part of the petitioner in not even complying with the statutory provisions of law and further not paying any heed to the directives given by this Court, when the petition is taken up for hearing”

4. The obligation on behalf of the appellant-employer is mandatory and statutory in kind. He cannot derive benefit of such non-compliance for years together after the award was made way back on 6.9.2006. A poor workman cannot be made to suffer at the hands of the employer in gross violation of law.

5. An earnest plea is being made on behalf of the appellant that he is now willing to pay and the matter may be therefore heard on merits.
6. We think it is too late now to entertain such a prayer.
7. Thus, we do not find any infirmity in the order of learned Single Judge. The appeal has no substance, the same is liable to be dismissed and is hereby dismissed.

Sd /-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge