

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION NO. 3696 OF 2005**

Gopal Prasad Sahu S/o Late Shri Daulat Ram Sahu Aged About 55 Years R/o Rajiv Nagar Gaura Choura, Khursipur, Zone - 2, Bhilai, District Durg Chhattisgarh.

---- Petitioner

Versus

1. Jems Raburt And Prop: M/s National Lethir Works, 10 - F, Light Industrial Area, Bhilai, District Durg Presently R/o Akash Nagar H / No. 13, Near New Gayatri Nagar, Raipur Chhattisgarh.
2. Assistant Labour Commissioner District Durg Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Jitendra Gupta, Advocate.
For Respondent	:	None

Hon'ble Shri Justice P. Sam KoshyOrder on Board26.02.2019

1. The challenge in the present writ petition is to the order dated 24.03.2004, passed by the Appellate Authority, Chhattisgarh Shop and Establishment Act, 1958.
2. The relevant facts for the disposal of the present writ petition is that the petitioner is alleged to have been working under respondents between 1994 to 1996. Subsequently he stood discontinued.
3. The petitioner challenging his discontinuance filed an appeal under section 58 before the Appellate Authority under the Chhattisgarh, Shop and Establishment Act, 1958, that is the Assistant Labour Commissioner Durg. The Appellate Authority, Assistant Labour Commissioner Durg vide his order dated 26.02.1999 allowed the appeal of the petitioner and granted an order of reinstatement with full back wages. When the said order was not complied with the petitioner preferred a case under section 33 (C) 2 of the Industrial

Dispute Act, 1974, before the Labour Court under I.D. Act that is the Labour Court Durg. The Labour Court Durg in turn vide its order dated 27.04.2001, allowed the application and granted the relief of payment of Rs. 53,240 in favour of the petitioner to be paid by the respondent within 30 days.

4. It is said that the respondents thereafter moved an application for setting aside of the ex-parte order passed by the Labour Court Durg. which was also subsequently rejected on 30.07.2002. It is said that the subsequently a review petition was preferred by the respondent before the Appellate Authority under Shop and establishment Act 1958 who had initially passed an order dated 26.02.1999. The review petition was filed on the ground that the order dated 26.02.1999 was obtained by material suppression of fact.
5. The petitioner herein was duly noticed in the review petition and fresh evidence were also recorded as is evident from the order of Appellate Authority, Shop and Establishment Act 1958. That during the course of evidence the petitioner is said to have admitted the fact that the during the period between 1994 to 1996, the petitioner was working under different establishment that is M/s. National Leather works located at the Industrial Area, Bhilai.
6. Further there also appears to be another order in favour of the petitioner from the Labour Court Durg where the petitioner is also shown to have been an employee of the Chhattisgarh Kalyan Samiti under section 7 Bhilai under whom the petitioner was working as a chaukidar at one of their colleges. The Petitioner has also got an

order of reinstatement with full back wages against the Chhattisgarh Kalyan Samiti, Bhilai.

7. These facts were not disputed by the petitioner before the Appellate Authority Shop and Establishment Act, during the review proceedings. Considering the fact that there were material suppression by the petitioner of having worked at, different establishment during the period, he claimed himself to have work under the present respondents. The Appellate Authority under the Shop and Establishment Act has thus reviewed its earlier order dated 26.02.1999 and recalling the said order 26.02.1999, the claim application of the petitioner has been rejected, which is under challenge in the present writ petition.
8. Having heard the Counsel for the petitioner and particularly going through the order passed by the Appellate Authority Shop and Establishment Act, wherein it has been specifically mentioned in respect of the petitioner being employed elsewhere during which he had claimed himself of having worked under the present respondent the finding arrived at by the Appellate Authority does not seem to be in any manner bad in law, nor it cannot be said to be contrary to the evidence come on record. On the contrary, what clearly reflects is that the petitioner at the first instance has obtained the order dated 26.02.1999 by making material suppression of fact. Once if it is being found by the Court below that it's earlier order has been obtained by the material suppression of fact and the suppression of facts stands establishment by the evidence of the worker himself and the Appellate Authority having recalled the same, it can not be

said that he has exercised his power without jurisdiction or no excess of his jurisdiction. Given the facts and circumstances that this Court does not find any strong case made out by the petitioner calling for an interference the impugned order Annexure (P-1) 24.03.2004.

9. The Writ Petition therefore fails and is accordingly dismissed

Sd/-

(P. Sam Koshy)
Judge