

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 689 of 2018**

(Arising out of the order dated 09.03.2018 passed by learned Single Judge in Writ Petition (L) No. 2156/2008)

Chhattisgarh Infrastructure Development Corporation Limited, Shastri Chowk, G.E. Road, Raipur (C.G.) through its Divisional Officer (Parivahan prabhag), Bilaspur (C.G.)

----Appellant

Versus

1. (i) Smt. Hemlata Chauhan, Wd/o Late Shyam Rao Chauhan, aged about 53 years,

(ii) Ashwani Chauhan, S/o Late Shayam Rao Chauhan, aged about 20 years,

Both are resident of Main Road Sarkanda in front of State Bank of India near Vinod Panthela, Radhakrishna Mandir, District Bilaspur (C.G.)

2. M.P. Transport Corporation through managing Director Headquarter Habibganj Bhopal (C.G.)

3. The Presiding Officer Labour Court Bilaspur (C.G.)

4. The Chhattisgarh State Industrial Court, Raipur through its Registrar (C.G.)

5. The Tehsildar Bilaspur Tehsil Bilaspur (C.G.)

---- Respondents

For Appellant	:	Mr. Akhilesh Kumar, Advocate.
For Respondents No. 1 (I) & (II)	:	Mr. M.H. Baig, Advocate.
For Respondent No. 5/State	:	Mr. Gagan Tiwari, Deputy Govt. Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Sanjay K. Agrawal, J

Judgment on Board

Sanjay K. Agrawal, J.

25/06/2019

(1) This writ appeal is directed against the impugned order dated 09.03.2018 passed by learned Single Judge in Writ Petition (L) No. 2156 of 2008 whereby the writ petition filed by the appellant—Chhattisgarh Infrastructure Development Corporation Limited (for short "CIDC") has been dismissed on merits as well as on the ground of delay.

(2) Learned counsel appearing for the appellant –CIDC would submit that learned Single Judge is absolutely unjustified in dismissing the writ petition, fastening liability upon the appellant –CIDC and thereafter directed to recover the same from respondent No. 2 – M.P. Road Transport Corporation (MPRTC) because it is the sole responsibility of respondent No. 2 –MPRTC as fastened by the Labour Court by order dated 31.02.2002 and affirmed by the Industrial Court on 20.02.2003 and, therefore, the impugned order is liable to be set aside.

(3) Per contra, learned counsel appearing for respondents No. 1(I) & 1(II)/legal representatives of original employee – Shyam Rao Chauhan would support the impugned order.

(4) None present for respondent No. 2, though served.

(5) We have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and went through the record with utmost circumspection.

(6) From a careful perusal of the record, it is quite vivid that deceased employee – Shyam Rao Chauhan was terminated by the erstwhile M.P. State Road Transport Corporation (MPSRTC), which he questioned by filing an application under Section 31 (3) of the M.P. Industrial Relations Act, 1960 (henceforth “MPIR Act, 1960”) which was ultimately granted on 31.01.2002 and on an appeal being preferred by the MPSRTC, the Industrial Court affirmed the finding so recorded by the Labour Court by order dated 20.02.2003. In the meanwhile, erstwhile State of Madhya Pradesh was re-organized with effect from 1.11.2000 and even the MPSRTC came to be dissolved with effect from 31.12.2002; so far as State of Chhattisgarh is concerned, a new Corporation i.e. Chhattisgarh Infrastructure Development Corporation Limited was constituted.

(7) When original employee – Shyam Rao Chouhan finding difficulty in recovering the consequential benefits flowing from the order of setting aside termination, he filed an application under Section 108 of the Act, 1960 and made an attempt to recover the amount

from the present CIDC, which persuaded the present appellant CIDC to file writ petition questioning the order of Labour Court as well as Industrial Court, which was dismissed by the learned Single Judge on the ground of delay as well as on merits.

(8) Fact remains that original application for setting aside termination and for grant of consequential benefits reinstatement with backwages was granted by the Labour Court against the MPSRTC and even the MPSRTC laid appeal, which was affirmed by the Industrial Court. So, it is the sole responsibility of the MPSRTC to discharge that liability by making payment of the consequential benefits, which the deceased –employee was entitled and which he has not been paid but tried to recover the said amount from the appellant – CIDC.

(9) Once liability has been fastened upon the MPSRTC, it has to be discharged by it in accordance with law and that cannot be fastened upon the appellant- CIDC and if the MPRTC, now constituted in place of MPSRTC, feels that under some arrangement or settlement between the parties, the said amount is liable to be recovered from the appellant - CIDC, MPRTC is at liberty to recover the said amount from the appellant- CIDC in accordance with law, but no liability can be fastened upon the appellant-CIDC, firstly to pay and then to recover from MPRTC as recorded by the learned Single Judge. The order passed by learned Single Judge is liable to be and is hereby set aside. The respondents No. 1(I) & 1(II) are at liberty to recover the said amount from the respondent No. 2 – MPRTC.

(10) At this stage, learned counsel appearing for the appellant-Corporation submits that appellant -CIDC will consider to discharge its liability, if any, in accordance with the settlement arrangement if any made and under the provisions of M.P. Re-Organization Act, 2000, if any. This order will not bar the appellant-CIDC to consider in accordance with law.

(11) The writ appeal is allowed modifying the order of learned Single Judge to the extent indicated hereinabove.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge

