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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 767 of 2018**

*{Arising out of order dated 13.07.2018 passed in Writ Petition (L) No. 7422 of 2011 by the learned Single Judge}*

Smt. Samarin Bai W/o Shri Munnilal Aged About 49 Years R/o Irrigation, Rampur Korba, Police Station Rampur, Tahsil And District Korba, Chhattisgarh

**---- Appellant**

**Versus**

1. State of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Naya Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Executive Engineer Hasdeo Baraj Jal Prabandh Division Rampur, Korba, District Korba, Chhattisgarh.
3. Sub Divisional Officer Hasdeo Barraj Jal Prabandh, Sub Division, Darri, Korba, District Korba, Chhattisgarh.

**---- Respondents**

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| For Appellant        | : Shri KPS Gandhi, Advocate.           |
| For Respondent/State | : Shri Rahul Jha, Government Advocate. |

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**Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**  
**Hon'ble Shri Parth Prateem Sahu, Judge**

**Judgment on Board**

**Per Ajay Kumar Tripathi, Chief Justice**

**22/01/2019**

1. Heard learned counsel for the Appellant and the learned Government Advocate for the State/Respondents.
2. A reference was made to the Labour Court against termination/illegal retrenchment of the present Appellant by the Respondent authorities. The Labour Court passed an award answering the reference in negative meaning thereby that no relief by way of declaration could be granted to the employee in question.

3. The award dated 25.03.2010 was challenged by the Appellant by filing a writ application. The learned Single Judge dismissed the writ application on the ground that the Labour Court has committed no error in law since the employee in question had failed to establish that she had worked for 240 days in the year preceding the date of her termination.
4. Submissions were made that the finding of the Labour Court was perverse and illegal, but on examination of the material and evidence on record, the learned Single Judge was satisfied that no evidence was brought which could establish the working of the Appellant continuously for a period of 240 days in the year preceding the date of termination i.e. 28.02.1995.
5. When the appeal was taken up, as a matter of special indulgence to the Appellant, the Court granted time to produce that clinching exhibit which could have been missed out both by the Labour Court as well as the learned Single Judge, which could have established her case of having worked for 240 days prior to the date of termination.
6. Despite much scouting around and inspection of the record of the Labour Court, nothing has been pointed out to us to show that the finding given by the Labour Court or the learned Single Judge could be held to be erroneous.
7. To be fair to the counsel for the Appellant, he does submit that though there was a certificate issued by the Respondent authorities in relation to her working but such certification was not marked as an exhibit or brought on record.
8. We cannot hold an order of a Tribunal or forum to be bad on the basis of materials which were never placed before them for consideration. An order will have to be judged on the basis of evidence pressed into service by the contesting parties. In absence thereof, the same cannot be supplemented in

matter of judicial review, especially under Article 226 of the Constitution of India. That occasion would have arisen provided the evidence was on record and the same was either misinterpreted or omitted which does not seem to be the case.

9. In the said background, we do not feel that either the Labour Court or the learned Single Judge, while examining the validity of the award or the reference having been answered in negative, committed any error of law.
10. The appeal has no merit. It is dismissed.

Sd/-  
(Ajay Kumar Tripathi)  
**CHIEF JUSTICE**

Sd/  
(Parth Prateem Sahu)  
**JUDGE**