

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 728 of 2011**

Smt. Kusum Tiwari, W/o. Late Suryakant Tiwari, Aged about 43 years,
R/o. Behind Janta Hotel, Near Pani Tanki, Telibandha, Raipur,
Chhattisgarh

---- Petitioner**Versus**

The Vice Chancellor, Indira Gandhi Agriculture University, Krashak
Nagar, Raipur, Chhattisgarh

---- Respondent

For Petitioner	:	Mr. S.P. Kale, Advocate
For Respondent	:	Mr. Sharad Mishra, Advocate on behalf of Mr. Ramakant Mishra, Adv.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

09/12/2020

1. The challenge in the present writ petition is to the award passed by the Labour Court, Raipur dated 14.11.2008 passed in case No. 26/2001/I.D.Act/Reference (Annexure P/1), which has been pronounced on 16.12.2008.
2. The brief facts relevant for the disposal of the present writ petition is that the husband of the petitioner was working as a Lab Technician, Analyst with the respondents between 19.07.1989 to 31.03.1991 i.e. for a period of one year and 8 months approximately. Subsequently, the services of the said employee stood discontinued.

3. The discontinuance from service was not challenged by the said employee namely Suryakant Tiwari for a considerable period of time. That it is only after about 8 years of time that the employee for the first time raised a dispute under the provisions of Industrial Disputes Act. The matter stood referred to the Labour Court, Raipur where the aforementioned case was registered as a reference case. In the course of the proceedings before the Labour Court the concerned employee late Suryakant Tiwari expired on 16.08.2006. Subsequently, the present petitioner, the widow of the employee got substituted and thereafter she is pursuing with the proceedings.
4. The Labour Court after due consideration of the evidence and the materials made available during the course of the proceedings vide the impugned award passed an order holding that the action on the part of the respondents being bad to the extent of not issuing the notice before retirement or salary in lieu of notice and also not paying the retrenchment compensation. The Labour Court accordingly ordered for payment of one month of salary in lieu of notice and also for payment of retrenchment compensation for the period the employee had worked under the respondents. The Labour Court had directed for compliance of the said order within a period of 30 days.
5. The said award has not been challenged by the respondents- University till now and thus by efflux of time the award so far as the University is concerned has attained finality. The petitioner herein the widow of the employee has challenged the said award stating

that the award is bad in law to the extent that once when the action has been held to be bad by the Labour Court, the employee or the legal heirs should have been entitled for all other consequential benefits which includes back wages.

6. Having heard the contentions put forth on either side and on perusal of record, what has to be taken note of at this juncture is the undisputed factual matrix of the case which are; the employee namely late Suryakant Tiwari worked with the respondents for a period of one year and 8 months approximately between 19.07.1989 to 31.3.1991, thereafter he stood discontinued from service. For the first time, the dispute was raised after more than 8 years before the Labour Authority. The matter stood referred to the Labour Court in the year 2001 and the Labour Court decided the matter vide the impugned order Annexure P/1 dated 14.11.2008. Another admitted facts of the case is that the employee concerned, during the proceedings before the Labour Court itself had expired.
7. Given the fact that the employee has since expired as early as on 16.08.2006 and also taking note of the fact that the employee had raised the dispute at a much belated stage of more than 8 years and from 1991 till the date of death, the employee has not in fact worked with the respondents. For the above said reason the question of grant of back wages does not arise at all. Another fact, which needs consideration is the fact that admittedly the appointment of the employee with the respondents also was substantially as a daily wage employee, who unless the services

are regularized may not have any indefeasible right in their favour and therefore the question for grant of other consequential benefits to the petitioner herein the widow also does not arise at this juncture. In view of the same, this Court does not find any strong case made out by the petitioner calling for an inference with the impugned order passed by the Labour Court.

8. At this juncture, the counsel for the petitioner submits that even the amount awarded by the Labour Court has till date not been given by the respondent authorities inspite of their being a specific direction for complying with the same within a period of 30 days. The counsel for the respondents submits that this aspect needs to be verified and if it has not been paid the same shall be paid to the petitioner without any further delay.
9. Taking note of the fact that the award is a bi-party award and the respondents are well aware of the award being passed, particularly when the respondents are represented in the present writ petition, it appears that the award passed by the Labour Court is well within their knowledge. In spite of that if the respondents have not complied with the directives given by the Labour Court, particularly when the order has not been questioned. The act on the part of the respondents cannot be appreciated particularly taking note of the fact that the proceedings were being pursued by the widow of the employee concerned. Taking the entire factual matrix of the case, this Court is of the opinion that whatever has been awarded by the Labour Court to be paid to the petitioner, if the same has not been paid to the petitioner till now let the same

be paid to the petitioner with interest @ 7% per annum from the date of award till the date of actual payment is made by the respondents. The respondents would also be at liberty to recover the interest part from the erring official, if any, for not promptly processing the award of the Labour Court.

10. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

Ved