

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 3442 of 2011**

1. Smt. Sushila Shrivastava W/o Late Ashok Kumar Shrivastava R/o Kalmee Duggu Darri, Tehsil - Katghora, District Korba Chhattisgarh.
2. Anjali Shrivastava D/o Late Ashok Kumar Shrivastava Aged About 21 Years R/o Kalmee Duggu Darri, Tehsil - Katghora, District Korba Chhattisgarh
3. Anjula Shrivastava D/o Late Ashok Kumar Shrivastava Aged About 19 Years R/o Kalmee Duggu Darri, Tehsil - Katghora, District Korba Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through Secretary, Water Resources Dept. D. K. S. Bhawan Raipur Chhattisgarh
2. Executive Engineer Hasdev Barrage, Water Management Division Rampur, Korba Chhattisgarh
3. Sub Divisional Officer Hasdev Barrage, Water Management Sub. Division Darri, Korba Chhattisgarh

---- Respondents

For Petitioner	:	Mr. S. P. Kale, Advocate
For State	:	Mr. Rahul Jha, GA

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

03/12/2020

1. The challenge in the present writ petition is the award passed by the Labour Court, Korba in case No. 7/I.D. Act/2008/ Reference dated 30.11.2009. Vide the said impugned award the Labour Court has answered the reference in the negative holding that the petitioner is not entitled for any benefit and has rejected the claim.

2. The facts of the case in the present writ petition was also which was adjudicated by the Labour Court is that the deceased employee in the instant case Ashok Kumar Shrivastava that is the husband of the petitioner No.1 and the father of the petitioner No.2 & 3 was engaged as Daily Wage Employee under the respondents on 01.01.1990. He continued to discharge the duties as Daily Wage Worker uptill 28.02.1995. Thereafter, the said employee was disengaged w.e.f. 01.03.1995 onwards.
3. The discontinuance was not immediately challenged by the worker before any forum, after a lapse of around 12 years the worker raised a dispute referred to the Labour Court for adjudication in the year 2008 where the matter was registered as Case No. 7/I.D. Act/2008/ Reference. The Labour Court, after the pleadings were completed, vide its award dated 30.11.2009 has turned down the claim of the worker holding him to be not entitled for any relief. It is this award which is under challenge in this writ petition.
4. The writ petition was filed on 22.02.2011 and it is said that the original petitioner the worker involved in the dispute died on 24.06.2011 after two days of filing of the writ petition. Subsequently, the present petitioners have been brought in as the legal heirs of the deceased employee. The aforesaid facts are not disputed as would be evident from the contents of the award of the Labour Court so far as engagement and disengagement of the worker is concerned. In the course of the award being passed the Labour Court has referred to various decisions rendered by the various High Courts as also by the Supreme Court while rejecting the claim of the petitioner, since the nature of engagement was only subject to availability of the work. The Labour Court has also taken into consideration the landmark judgment of the Supreme Court in the case of **Secretary, State of Karnataka and others Vs. Uma Devi (3) and others, 2006 (4) SCC 1**.
5. Counsel for the petitioner herein referring to the judgment of the Supreme Court in the case of **Ramesh Kumar V. State of Haryana, 2010 AIR SCW**

897 contended that the judgment of the Uma Devi(Supra) would not be applicable so far as Daily wage employee is concerned. According to the petitioner the only requirement to be tested by the Labour Court was whether the Daily Wage Employee has worked continuously for a period of more than 240 days in the preceding order prior to disengagement. It was also the contention of the petitioner that from the finding of the Labour Court it appears that Labour Court has accepted the fact that deceased worker has put in more than 240 days of continuous work prior to disengagement.

6. Having heard the submissions put forth by the counsel for the petitioner what needs to be considered at this juncture is that fact that worker admittedly was disengaged w.e.f. 01.03.1995. He slept over for a period of 12 years of time before raising a dispute in the year 2008 and down the line the worker in the instant case has also expired. Therefore now the question of reinstatement does not arise or does survive any longer. Since the dispute itself was raised after about 12 years there is also no scope of awarding back wages.
7. We also need not forget the fact of the substantive engagement of the worker was as a Daily Wage Employee who have got very few rights in the capacity of Daily Wage Employee. Since the question of reinstatement and backwages in the opinion of this Court does not survive, the question of granting of any further relief to the petitioners herein also does not arise.
8. Another aspect which cannot be lose sight of is that the award was passed on 30.11.2009 and was pronounced on 25.02.2010. The writ petition again was preferred at a much belated stage after more than 1 ½ year i.e. on 22.06.2011.
9. Given the entire factual matrix of the case, this Court does not find any strong case made out by the petitioner at this juncture calling for an

interference with the impugned award. The writ petition deserves to be and is accordingly rejected.

10. It is made clear that rejection of the present writ petition and the aforesaid award by the Labour Court should not come in the way of claimants claiming for any dues if they are entitled for from the respondents which was payable to the worker involved in the dispute.

Sd/-
(P. Sam Koshy)
Judge

Rohit