

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 4512 of 2011**

1. State Of Chhattisgarh, Through: the Secretary, Department of Water Resources, DKS Bhawan, Mantralaya, Raipur, CG

(The petitioner no.1 was not a party before the learned Labour Court but has been impleaded as petitioner no.1 in the instant petition as the proper course is to implead the State Government through the Secretary of the concerned department)

1. Sub Divisional Officer, Janjgir Shakha Nahar up-Sambhag Kramank 4 , nandeli Bhatha, Sakti Post Sakti District Janjgir Champa, C.G.

---- **Petitioners**

Versus

Narayan Singh Sidar S/o Shri Megh Singh Sidar, Village Dhanpur, Post Nagarda, Tah Sakti, Distt. Janjgir Champa, CG

---- **Respondent**

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

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/01/2021

1. The present writ petition has been preferred by the State challenging the award passed by the labour Court Bilaspur in case No. 51/IDA/09/Reference. Vide the impugned award the labour Court on 03.07.2010 has answered the reference in favour of the worker and granted him relief of reinstatement without back wages.
2. The order of the labour Court dated 03.07.2010 has since been complied with in as much as the worker involved in the dispute has been reinstated on 01.01.2011 and has continued to work with the respondents till he attained the age of superannuation in the year 2018 as stated by the counsel for the respondent worker.

3. Undisputedly the facts of the case is that the respondent worker in the instant case was engaged by the petitioners as Daily Wage employee wayback in the year 1988 and he continued to work under the respondents till February, 1995 when abruptly the services of the petitioner was discontinued. Admittedly before discontinuance of the service of the petitioner was not issued with any notice or was paid any sort of compensation/retrenchment compensation. Discontinuance was challenged by the respondent before labour court by raising an industrial Dispute and labour court vide impugned award after due consideration of the pleadings and evidences answered the reference in favour of the worker by granting him the relief of reinstatement without backwages. It is this order which is under challenge.
4. Contention of the State challenging the order is that the substantive appointment of the petitioner was only that of a daily wage worker he did not have any indefeasible right nor was the said worker entitled for any sort of compensation upon being discontinued from service on account of non availability of work. The contention of the State also was that it was the case where dispute itself was raised by the worker after the period of more than 12 years from the date of initial discontinuance and the reference ought to have been rejected on the delay itself. State further contended that worker involved in the dispute also has not been able to substantiate his case of having worked continuously for more than 240 days in a calendar year before discontinuance enabling him any right under the provisions of the ID Act.
5. Having heard the contentions put forth and on perusal of record some of the admitted factual position as it reveals is that the worker in the present writ petition was undoubtedly engaged by the petitioner in the year 1988 and worker worked in the Establishment till February, 1995. He was abruptly discontinued. It is also not in dispute that worker was not issued

with any notice or granted any compensation, even retrenchment compensation before discontinuance from the service.

6. True it is that worker has raised the dispute after a period of 12 years. The labour Court has duly taken note of this fact and have not granted benefit of back wages to the worker in this regard. Moreover, under the Industrial Disputes Act there was no such period of limitation prescribed within which the worker has to raise his dispute so far as challenge to an order of discontinuance or removal from service is concerned.
7. Plain perusal the impugned award of the labour Court clearly reflects that the entire finding of the labour Court is finding of fact after due appreciation of the evidence led by the witnesses appearing on the either side. Another aspect which weighs more in the mind of this Court while considering the present writ petition is the fact that the worker involved in the dispute initially had put in about 7 years of service before discontinuance and thereafter after award was passed on 03.07.2010 the worker has been again reinstated in service in January, 2011 and since then worker has been permitted to remain in employment till he crossed the age of superannuation and as of now he is a retired worker. The equity falls in favour of the respondent worker so far as award of the labour court is concerned. Unsettling the award at this stage may have a far reaching effect on the career of the worker and on his dependents.
8. For all the aforesaid reasons this Court does not find any strong case made out for interference with the impugned award. The writ petition deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit