

HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 5761 of 2011**

- Kashi Ram S/o Shri Beeje Lal Satnami R/o Village Gobhara Tahsil-Chhuikhadan Distt. Rajnandgaon CG

---- Petitioner**Versus**

- 1.State of Chhattisgarh Through- The Secretary Department of Forest, D.K.S. Bhawan, Raipur(C.G.)
- 2.The Divisional Forest Officer Forest Division-Khairagarh Distt. Rajnandgaon C.G.

---- Respondents

For Petitioner	:	Mr. Ajit Singh, Advocate
For Respondents/ State	:	Ms. Akansha Jain, P.L.

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****11.02.2021**

1. The present petition under Article 226/ 227 of the Constitution of India has been preferred assailing the award passed by the Labour Court, Rajnandgaon in Case No.209/I.D.Act/reference/2008, wherein vide award dated 18.01.2011 the Labour Court has answered the reference in the negative holding that the petitioner was not entitled for any relief.
2. The brief facts of the case relevant for the disposal of the writ petition is that the petitioner herein claimed himself to have worked under the respondent as a dailywage employee for a period of more than 10 years and that his services were abruptly discontinued with effect from April, 2003. The contention was that before discontinuance

there was no notice given to the petitioner nor was there any compensation of any nature provided to the petitioner. Therefore, the action on the part of respondent amounts to illegal termination and illegal retrenchment and the petitioner was entitled for reinstatement with consequential benefits.

3. The challenge to the award by the petitioner is on the ground that it is a case where the worker has led sufficient evidence before the Labour Court to substantiate his claim and the evidence of the worker also stood supported by an independent witness an ex employee of the Forest Department itself where the petitioner had discharged his duties.
4. The further contention of the petitioner is that to the evidence which has been led by the worker there has been no evidence in rebuttal by the respondents state and therefore in the absence of any evidence in rebuttal the claim of the petitioner ought to had been accepted by the Labour Court and the reference made to the Labour Court ought to had been answered in the affirmative.
5. The State counsel on the other hand submits that from the written statement that the respondent had filed before the Labour Court the stand of the respondent was clear that the worker had never worked under them and that the office where the petitioner is said to have worked itself came into existence in 2001 and their office does not have any records prior to that which by itself establishes these facts that the worker in fact never worked under the respondents. There was a categorical denial of employment by the respondents in their written statement. According to State counsel it was for the applicant himself to have established; firstly, engagement as a dailywage

employee, secondly his continuance in service for considerable period of time and thirdly that he had worked under the respondents for 240 days continuously before discontinuance to get the relief which otherwise he is entitled for under Chapter-V of the Industrial Disputes Act and thus prayed that the award of the Labour Court does not warrant any interference.

6. Having heard the contention put-forth on either side and on perusal of the record the admitted factual matrix as on date as available with the writ petition is that the worker in the instant case had raised an industrial dispute under the provision of I.D.Act in the year 2008-09 which stood referred to the Labour Court vide order dated 13.10.2008 where the case stood registered as case No.209/I.D. Act/ref, of the 2008. The petitioner entered appearance and submitted his statement of claim wherein he has made a categorical statement that he was in employment with the respondents since 1990 onwards and he stood discontinued abruptly on 06.04.2003. The respondents also entered appearance and submitted their written statement raising certain preliminary objection as also on merits with categorical stand of the petitioner never been employed by the respondents.
7. Subsequently, the worker led evidence before the Labour Court wherein in his affidavit under Order 18 Rule 4 of CPC he makes a statement that he has been working with the respondents since 1985 and that he has been discontinued from service from 06.04.2003 onwards. The statement of claim by the petitioner and his affidavit itself is self contradictory to the extent of initial engagement wherein in the statement of claim he makes a statement he has worked from

1990 whereas in his affidavit he says that he has worked since 1985, which itself shows that the petitioner himself was not very sure in respect of his engagement under the respondents. Moreover, there is no evidence of any sort of documents as proof to establish his employment with the respondents. Neither has there been an effort made on the part of the petitioner worker to move an appropriate application before the Labour Court seeking production of documents from the respondents by which his employment could have been established. As regards the independent witness which the petitioner has adduced of one Manglu Ram Sahu his evidence also is not supported with any concrete proof of the stand that they have taken. On the contrary the said witness in his cross-examination that admitted the fact that the said office of the second party before the Labour Court was itself established in 2001.

8. Given the aforesaid facts and circumstances of the case now if look into the award which the Labour Court has passed it clearly reflects that the Labour Court also has taken note of these factual aspects of the case and reached to the conclusion that the worker has not been able to establish his case of an illegal termination or an illegal retrenchment making him entitled for any relief.
9. The finding of the Labour Court is clearly a finding of fact which cannot be interfered with by this Court in exercise of the writ jurisdiction under Article 226 wherein limited scope of interference permitted under the power of judicial review is whether the findings arrived at is perverse and contrary to the evidence on record or whether the award passed is within the jurisdiction conferred upon the authority who has passed the award. Both these grounds are not

the grounds on which challenge has been made to the award. Looking to the said facts this Court finds that it difficult to interfere with the impugned order passed by the Labour Court.

10. The writ petition, thus, being devoid of merit liable to be and is accordingly rejected. No order as to costs.

**Sd/-
(P. Sam Koshy)
JUDGE**

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