

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP(L) No. 534 of 2011**

1. Chhattisgarh Rajya Van Vikas Nigam Limited, Through its Divisional Manager, Near Mangala Chowk, Bilaspur Tehsil and District Bilaspur

---- **Petitioner****Versus**

1. Ghanyshyam Kumar Namdev, S/o Shri Lakhan Lal Namdev, Aged about ... Years, Resident of Firangapara, Village and post Kargiroad (Kota), District Bilaspur Chhattisgarh.

---**Respondent**

For Petitioner	:	Mr. Ashutosh Singh Kachhawaha, Advocate.
For Respondents	:	Mr. S. P. Kale, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/04/2021**

2. Aggrieved by the award passed by the Labour Court Bilaspur in case No. 69/I.D.A/2009 (Ref.). dated 23.04.2010, the present writ petition has been filed. Vide the impugned award, the Labour Court has granted the benefit of reinstatement in service without back wages.
3. The facts of the case in brief is that the respondent was engaged as a daily wage employee by the erstwhile Madhya Pradesh Raj Van Vikas Nigam Ltd. and was discharging his duty at Project Kota Bilaspur. The petitioner was initially engaged in the year 1985 and continued as a daily wage worker uptill January 1993. Thereafter, the services of the respondent was abruptly discontinued by the authorities. The respondent after a period about 16 years, has raised an industrial dispute before the Assistant Labour

Commissioner under Industrial Dispute Act and the Assistant Labour Commissioner thereafter made a reference to the Labour Court vide order dated 04.11.2009. The term of reference being “whether the dispute raised by Shri Ghanshyam Kumar Namdev S/o Lakhan Lal Namdev after 16 years of his removal from service was maintainable ?, If Yes, then, whether the removal of service of the respondent was proper legal and justified, if not, what relief and direction can be issued to the employer in this regard.”

4. The Labour Court registered the matter as case No. 69/I.D.A/2009 (Ref.) and proceeded with the matter. The worker as well as the petitioner-employer had submitted their statement of claim and written statement, thereafter the evidences was ordered to be recorded. The respondent-worker examined himself before the Labour Court, however, there was no evidence led by the petitioner-employer before the Labour Court and the Labour Court on the basis of the available records and evidences, has passed the impugned award. It is this award which is under challenge in this writ petition.
5. The Contentions of the counsel for the petitioner is that firstly the dispute ought to have been rejected by the Labour Court on the ground of the same having been raised at a belated stage. Secondly, the Labour Court has failed to appreciate the fact that there is no proper appointment order issued in favour of the respondent nor was he selected appointed or engaged after following any due process of law or any proper selection procedure. Moreover, there was no work available with the petitioner-

establishment after the new State of Chhattisgarh was established as all the sawmills under the Corporation were all closed before the establishment of the State of Chhattisgarh itself and therefore the petitioner cannot be forced to take the respondent back in service. Moreover, further contention of the counsel for the petitioner is that even if the respondent was at any point of time engaged, the same was purely on daily wage basis on the availability of work and the moment the availability of work was not there, no right as such was available for the respondent to claim employment as a matter of right.

6. Per contra, the learned counsel for the worker submits that the petitioner-corporation have already complied with the order of the Labour Court as early as on 16.08.2011 and since then, the worker-respondent has already put in around 10 years of service and at this juncture, it would not be justifiable to interfere with the award after so long a period. The respondent-worker at this juncture would find himself difficult to get another employment elsewhere. This can be detrimental to both the respondent as also all persons dependent on him. Moreover, counsel for the petitioner referred Paragraph -4 of the award of the Labour Court. For ready reference the Paragraph -4 is reproduced here-in-under:-

आवेदक यदि छ.ग. राज्य वन विकास निगम लिमि. में चल रहे वानिकी कार्य करने को तैयार है, तो उपरोक्त कार्य में दैनिक मजदूरी में कार्य पर रखने में द्वितीय पक्ष को कोई आपत्ति नहीं है।

7. Referring to paragraph-4 the respondent submits that there is an averment / contention of the corporation that in the event if the worker is ready to discharge his duty as a daily wage worker in the forest Division, the petitioner does not have any objection in keeping the respondents.
8. Given the aforesaid factual matrix of the case, taking into consideration the aforesaid contentions of the Corporation before the Labour Court and which has been taken note of by the Labour Court in its award. Further, also taking note of the fact that there was no evidence whatsoever led by the Corporation before the Labour Court to substantiate their contention or to dispute the contention of the worker. The findings arrived at by the Labour Court becomes finding of fact and also finding on the basis of evidence available on records.
9. It is settled position of law that the High Court under Article 226 would not substitute itself as an Appellate Authority over the finding given by the Labour Court particularly when the finding of facts based on evidence, even otherwise equity as on date is in his favour of the respondent- worker for the reasons that he has already put in about 10 years of service after the award having been passed in his favour and he still is discharging his duty under the petitioner corporation.
10. For all the aforesaid reasons, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned award. The impugned award therefore to the extent of there being an order of reinstatement without back wages

does not warrant interference and same therefore deserves to be
and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Jyotijha