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HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 281 of 2014**

1. State Of Chhattisgarh through Secretary, Department Of Water Resources, Mahanadi Bhawna, Mantralaya, Naya Raipur, Dist Raiur, Cg, Chhattisgarh.

(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)

2. The Executive Engineer Water Resources Division, Chhuikhadan, Dist Rajnandgaon, Cg

---- Petitioner

Versus

1. Narad Ram And Ors. S/o Kartik Sahu Aged About 38 Years R/o Village Kohalatola, Ps Chhuikhadan, Tah Chhuikhadan, Dist Rajnandgaon, Cg, Chhattisgarh
2. Harish Chandra S/o Inaram Sahu Aged About 40 Years R/o Village Kohalatola, Ps Chhuikhadan, Tah Chhuikhadan, Dist Rajnandgaon, Cg, District : Rajnandgaon, Chhattisgarh
3. Chatur Ram S/o Dukhram Chandel Aged About 52 Years R/o Village Kohalatola, Ps Chhuikhadan, Tah Chhuikhadan, Dist Rajnandgaon, Cg, District : Rajnandgaon, Chhattisgarh
4. Khelan S/o Shobhit Yadav Aged About 36 Years R/o Village Kohalatola, Ps Chhuikhadan, Tah Chhuikhadan, Dist Rajnandgaon, Cg, District : Rajnandgaon, Chhattisgarh
5. Pitamber S/o Dharmu Netam R/o Village Kohalatola, Ps Chhuikhadan, Tah Chhuikhadan, Dist Rajnandgaon, Cg, District : Rajnandgaon, Chhattisgarh
6. Khemchand S/o Ratan Ram Chandel Aged About 31 Years R/o Village Kohalatola, Ps Chhuikhadan, Tah Chhuikhadan, Dist Rajnandgaon, Cg, District : Rajnandgaon, Chhattisgarh
7. The Presiding Officer, Labour Court, Rajnandgaon, Dist Rajnandgaon, Cg, District : Rajnandgaon, Chhattisgarh

----Respondents

For State/ Petitioners	:	Shri Jitendra Pali, Dy. A.G.
For Respondent-Workers	:	Shri Sunil Sahu, Advocate.

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

01.09.2021

1. Aggrieved by the award Annexure P/1 dated 30.05.2014 in case No. MP/ 216/I.A. Act Reference/ 2012, the present writ petition has been filed. Vide the impugned award, the Labour Court has granted the relief of reinstatement without back wages.
2. The admitted factual matrix from the pleadings as is evident is that the respondent-workers were engaged by the petitioners herein as daily wage workers and all the respondent-workers were engaged during the period between 1999 to 2010, when abruptly the services of the respondent-workers were discontinued. While discontinuing the services, the respondents were not paid either retrenchment compensation or any notice was issued, neither were they paid any salary in lieu of notice. The services of the respondent-workers were also not discontinued on account of unsatisfactory work. The respondents immediately had raised a dispute invoking the provisions of Industrial Dispute Act and the matter got referred to the Labour Court at Rajnandgaon. After the parties were directed to submit their statement of claim and the written statement, the matter was put to evidence and all the workers entered appearance before the Labour Court and gave their evidences and on behalf of the petitioner-establishment one Shri P.L. Banjare was examined. After due consideration of the evidences and the pleadings before the Labour Court, the matter was finally decided and the impugned award Annexure P/1 was passed on 30.05.2014. Vide the said order, the

Labour Court has answered the reference in favour of the respondent-workers and granted the relief of reinstatement without back wages. It is this award which is now under challenge in the present writ petition.

3. A fact which has been revealed from the submissions put forth on either side is that the Labour Court's award was immediately complied with by the petitioners and all the workers were reinstated in service in September 2014 itself. Since then all the workers have been continuing in service till date, as such they have put in more than 7 years of service after the award of the labour Court.
4. The Labour Court in the course of examining the evidence that has come on records found that the Departmental witness namely Shri P.L. Banjare has in his evidence accepted from the documents available with the department, the employment of the respondent-workers. Moreover, the workers were also able to submit certain documents to prove their employment with the petitioners for the said period, between 1999 to 2010, like the copy of muster rolls etc.
5. In the aforegiven factual backdrop, it stands established that the finding given by the Labour Court is a finding of fact and is also a finding based upon the evidence which has been recorded on either side. From the evidence, it stands admittedly proved that the workers involved in the petition had initially worked under the petitioners for a period of around 11-12 years and subsequent to reinstatement that they have again put in around seven and a half years of services. Thus, all the workers by have now put in around 20 years of services, they have all crossed the age of 45 and thereby they would not be in a position to get further employment elsewhere. The equity also therefore

as on date lies in favour of the respondent-workers.

6. As regards the scope of interference it is by now well settled proposition of law that High Court under Article 226 would not be sitting over under Industrial Disputes Act as the Appellate Court. The High Court also would not conduct a thread bear enquiry to test the finding of facts arrived at by the labour Court while exercising the Writ Jurisdiction. The Scope of judicial review against the award of the labour Court is confined to finding which is perverse, a finding which is in excess of jurisdiction and a finding which is contrary to the evidence on record. In the instant case, the management witness i.e. the witness of the petitioner-establishment himself has admitted the employment part before the Labour Court. Thus, the finding of the Labour Court cannot be said to be in any manner perverse or contrary to evidence.
7. The scope of interference exercising the power of judicial review by the High Court is only in the event if the finding of the labour Court is a perverse finding or is one which is contrary to the evidence which has come on record.
8. In para 17 of (2014) 7 Supreme Court Cases, 190 (Hari Nandan Prasad and Another vs. Employer I/R to Management of Food Corporation of India & Another), it has been held as under:-

“17.....At the time of their disengagement even when they had continuous service for more than 240 days (in fact about 3 years) they were not given any notice or pay in lieu of notice as well as retrenchment compensation. Thus, the mandatory precondition of retrenchment I paying the aforesaid dues in accordance with Section 25-F of the ID Act was not complied with. That is sufficient to render the termination as illegal. Even the High Court in the impugned judgment has accepted this position and there was no quarrel on this aspect before us as well.....”
9. Applying the same analogy and again reiterating the same in the case

of (2014) 7 Supreme Court Cases 177 (Bharat Sanchar Nigam Limited vs. Bhurumal), it has been held in paragraph- 27 as under:-

“27.....In any case, the award is passed on the basis that the respondent had worked for 240 days in the preceding 12 months' period prior to his termination and therefore it is a clear case of violation of Section 25-F of the Industrial Disputes Act. The termination is, thus, rightly held to be illegal. We do not find any perversity in this outcome.”

10. The Supreme Court in the case of “Harjinder Singh v. Punjab State Warehousing Corpn.” reported in (2010) 3 SCC 192, in paragraph 21 held as under:-

“21. Before concluding, we consider it necessary to observe that while exercising jurisdiction under Articles 226 and /or 227 of the Constitution in matters like the present one, the High Courts are duty-bound to keep in mind that the Industrial Disputes Act and others similar legislative instruments are social welfare legislative instruments are social welfare legislations and the same are required to be interpreted keeping in view the goals set out in the Preamble of the Constitution and the provisions contained in Part IV thereof in general and Articles 38, 39(a) to (e), 43 and 43-A in particular, which mandate that the State should secure a social order for the promotion of welfare of the people, ensure equality between men and women and equitable distribution of material resources of the community to subserve the common good and also ensure that the workers get their dues. More than 41 years ago, Gajendragadkar, J. opined that:

10. The concept of social and economic justice is a living concept of revolutionary import; it gives sustenance to the rule of law and meaning and significance to the ideal of welfare State.' (A.I.R 1958 SC 923 [State of Mysore v. Workers of Gold Mines, AIR p.928, para 10.]”

11. This view has further been reiterated in the case of “Bhuvnesh Kumar Dwivedi v. Hindalco Industries Limited” reported in (2014) 11 SCC 85.

12. Given the fact that this Court does not find any strong case made out calling for an interference with the order of reinstatement by the Labour Court. Accordingly, the writ petition stands dismissed.

Sd/-

**P. Sam Koshy
Judge**