

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 59 of 2013**

1. State Of Chhattisgarh And Anr. S/o Through Secretary, Water Resources Deptt, Mahanadi Bhawan, Naya Mantralaya, Naya Raipur, PS Mandir Hasaud, Raipur, Distt Raipur, 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 District Rajnandgaon C.G.

---- **Petitioner**

Versus

1. Ravi S/o Hari Lal Kurre R/o Khairagarh, PS Chuikhaadan, District Rajnandgaon, Chhattisgarh
2. Shiv Kumar S/o Peru R/o Vill. Dokrabhata, Tah Khairagarh, PS Chhuikhadan, District : Rajnandgaon, Chhattisgarh
3. Jayram S/o Harilal Kurre R/o Vill Dokrabhata, Tah Khairagarh, PS Chhuikhadan, District : Rajnandgaon, Chhattisgarh
4. Jayram S/o Harilal Kurre R/o Vill Dokrabhata, Tah Khairagarh, PS Chhuikhadan, District : Rajnandgaon, Chhattisgarh
5. Parsadi S/o Hiru Sahu R/o Vill Dokrabhata, Tah Khairagarh, PS Chhuikhadan, District : Rajnandgaon, Chhattisgarh
6. Dashrath S/o Jagarakhan Sahu R/o Vill Khairbana, Tah Khairagarh, PS Chhuikhadan, District : Rajnandgaon, Chhattisgarh
7. Ramgopal S/o Dashru R/o Vill Bhursatola, Tah Khairagarh, PS Chhuikhadan, District : Rajnandgaon, Chhattisgarh
8. The Presiding Officer Labour Court, District : Rajnandgaon, Chhattisgarh

---- **Respondents**

For Petitioner/State : Mr. Rahul Jha, GA

For Respondents : Mr. Basant Dewangan, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/01/2021

1. The challenge in the present writ petition is to the Annexure P-1 dated 28.08.2012 passed by the labour Court Rajnandgaon in case No.234/IDA/Reference/2011. Vide the impugned award the labour Court has granted relief of reinstatement without back wages.
2. The brief facts of the case is that the respondents No.1 to 7 were engaged by the petitioner as Daily Wage Worker at the Pipariya Project in district Rajnandgaon. The workers engaged during the period of July, 2000 to October, 2008 when abruptly the services were discontinued. The discontinuance was questioned by raising an industrial dispute and matter stood referred to the labour Court where the labour Court registered case as case No.234/IDA/Reference/2011. After the pleadings were completed all the respondents workers involved in the case led evidence in support of their contentions wherein their specific statement given by them that they had worked with the respondents continuously and uninterruptedly between July, 2000 to October, 2008 when abruptly their services were discontinued. It was clear contention of the workers that before discontinuance from work the petitioners had not given them any compensation nor was any show cause notice etc. issued to them in respect of their performance being unsatisfactory. It was further contention of the respondents that discontinuance was in total contravention to the provisions of the Chapter 5 of the Industrial Disputes act and therefore it amounted to illegal termination and the workers had raised the dispute.
3. Petitioner State in rebuttal lead evidence one Shri R. A. Sharma the SDO under the Water Resources Project. That Subsequent to the evidence led by the either side labour Court vide the impugned award answered the reference allowing the claim of the respondent workers to the extent of awarding reinstatement without back wages. It is this award which is under challenge in the present writ petition.

4. Contention of the State counsel challenging the award was that learned labour Court had failed to appreciate the fact that substantive appointment of the respondent workers were purely on daily wage basis. It was also the contention of the State that nature of employment was purely temporary and they were engaged only on availability of work and for a specific project and on completion of work service automatically stood discontinued and therefore the finding of the labour Court being erroneous needs to be interfered with. Counsel for the State also submits that from the evidence which has come on record there also does not seem to be any documentary proof to establish that each of the respondent workers had completed more than 240 days continuously before discontinuance from service and for this reason also finding of the labour Court is erroneous.
5. Per contra, learned counsel for the respondent submits that impugned award does not warrant any interference for the simple reason that bare perusal of the itself would show that those are all finding of fact purely on the basis of evidence. It was further contention of the counsel for the respondent that from the finding of fact it is established that workers involved in the dispute had been working with the petitioners for a period of almost 6 years between July, 2000 to October, 2008. Further contention of the respondents is that after the impugned award was passed the petitioner have reinstated the respondent workers in 2012 itself and as such respondent workers have even thereafter again put about 8 years of service by now. And as such the respondents have in all put about almost more than 16 years of service in all and therefore the equity also demands that the impugned award be not interfered with at this stage. Further contention of the respondent worker is that taking into consideration the age of the each of the worker also the impugned award may not be interfered with because by now the respondent workers have all crossed their middle age and therefore in the event of they being removed from employment they would not be in a position to get employment elsewhere

which was irreparable loss to the respondent workers and also to the dependents to the workers involved in the dispute.

6. Having heard the contentions put forth on either side and on perusal of record the plain reading of the Annexure P-1 the impugned award would show that the workers involved in the dispute had entered appearance before the labour Court and they had given their evidence and in their evidence it has been categorically stated by them that workers engaged by the respondents at the different projects between July, 2000 to October, 2008 when abruptly the services of the respondents discontinued.
7. Perusal of the award shows that the witness examined on behalf of the petitioners i.e. the Departmental witness namely R.A. Sharma had in his cross examination admitted the aspect of engagement of the Respondent workers on availability of work. It was also admitted that before discontinuance they were not paid any compensation nor were they issued with any notice or paid retrenchment compensation etc. All of this by itself establishes the engagement of the worker by the petitioner and also establishes the fact that there was non compliance of the provisions of Chapter 5 of ID act Before discontinuance which led to the finding of the labour Court of declaring the said discontinuance to be illegal termination thereby awarding reinstatement without backwages.
8. In the reply of the petitioners had submitted before labour Court also though there is categorical denial in some portion of the reply so far as engagement of the workers as daily wage employee, however at the same place the petitioners have also contended that even if at all the workers are engaged they were engaged as Daily Wage workers purely on availability of work which further reads to force this Court to draw an inference that even at the time of filing of the statement by the petitioner they were not quite sure whether the respondents involved in the dispute were engaged

by them or not, coupled with the fact that petitioners have failed to lead strong evidence to disprove the contentions of the workers.

9. Under the circumstances, if the labour Court has not drawn adverse inference relying upon the evidence led by the parties, the same cannot be said to be in any manner illegal or contrary to the evidence on record. The impugned award in the given circumstances does not warrant any interference and the principles of equity in favour of the respondents workers who have prior to the dispute as also subsequent to the dispute have put in more than 8 years of service. The writ petition deserves to be and is accordingly stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit