

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 5181 of 2011**

1. State Of Chhattisgarh Through the Secretary, Water Resources Department, DKS Bhawan, Mantralaya, Raipur (C.G.)
2. (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)
3. Executive Engineer, Water Resources Department, Chuuikhadan, District Rajnandgaon, (CG)

---- Petitioners**Versus**

1. Pratap Sahu, S/o Bagas Sahu,
2. Shiv Prasad Sahu, S/o Hiru Sahu,
3. Hemuram Patel, S/o Chabilal patel,
4. Gulabchand Sahu, S/o Govardhan Sahu,
5. Tulsiram, S/o Brijlal,
6. Lekram, S/o Khemlal Patel,
7. Bholaram, S/o Mangalram Patel,
8. Chintaram, S/o Dhanauram Sahu
9. Dujram, S/o Premaram patel,
10. Jaggu Sahu, S/o Baran Sahu
11. (Respondent No. 1 to 10 are all R/o of Dokrabhata, Tahsil Khairagarh, Distt. Rajnandgaon (CG))
12. Shiv Prasad Sahu, S/o Banau Ram Sahu, R/o Village Khairagarh, District Rajnandgaon
13. Chaganlal Sahu, S/o Sukalram, R/o Village Khairbana, Tahsil Khairagarh, District Rajnandgaon, (CG)

---- Respondents

For Petitioner/State	:	Mr. Rahul Jha, GA
For Respondents	:	Mr. Shikhar Sharma, 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 award Annexure P-1 dated 20.06.2011 which was pronounced on publication in the gazette on 18.07.2011. Vide the impugned award the labour Court has granted relief of the reinstatement without backwages to the respondent workers involved in the dispute.
2. Facts of the case in brief necessary for disposal of the writ petition is that respondent No.1 to 12 were the workers engaged as Daily Wage basis by the petitioners herein at Pipariya Dam, Chindari, Dokrabhata, Atikasa, Bajguda, Tekapar, Bhulatola, Khogha etc. in the year 1988. the respondent workers discontinued to discharge their duties as daily wage employees uptill June, 2009 when abruptly the services of the respondent workers were discontinued.
3. Subsequent to the discontinuance of the service respondent workers raised industrial dispute before the State Labour Commissioner who in turn referred the matter to the labour Court, Rajnandgaon where the case was registered as case No. 43/ID Act/ Reference/ 2009. After the pleadings were complete and recording of the evidence on either side the labour Court finally vide its impugned award Annexure P-1 held that the discontinuance of services of the respondent workers were in total contravention to the provisions envisaged under the Chapter V of the Industrial Disputes Act and discontinuance amounted to illegal termination and therefore granted relief of reinstatement without backwages to all the workers i.e. respondents 1 to 12. 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 their 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 findings 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 10 years between May, 1988 to June, 2007. Further contention of the respondents is that after the impugned award was passed the petitioner have promptly reinstated the respondent workers in August, 2011 itself and as such respondent workers have even thereafter by now put about 10 years of service. And as such the respondents have in all put about almost 19-20 years of service 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 can cause irreparable loss to the respondent workers and also on the dependents .

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 May, 1988 to June, 2007 when abruptly the services of the respondents discontinued.
7. Further reading of the impugned award would also go to show that in rebuttal to the evidence led by the workers there was no evidence led by the petitioner/ State before labour Court by which the evidence of the workers would be controverted or reverted in any manner. The proceeding show that in spite of repeated opportunities the petitioner had been failed to lead evidence to disprove the contentions put forth by the workers. In the reply that 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 leads to force this Court to draw an inference that even at the time of filing of the written 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 not availed the opportunity of leading evidence to disprove these contentions.
8. Under the circumstances, if the labour Court has drawn an adverse inference relying upon the evidence led by the workers, 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 also being in favour of the respondent workers who have prior to the dispute as also subsequent to the dispute have put in about 10 years of service each. The writ petition deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit