

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (L) No. 6525 of 2011

R.R. Energy through its General Manager, R.R. Energy, Village & Post Garhumaria, Tehsil and District Raigarh (CG).

---Petitioner(s)

Versus

1. Akhil Bihari Panda S/o Late Narayan Panda, aged about 39 years, R/o Village & Post Garhumaria, Tehsil and District Raigarh (CG).
2. Labour Court, through its Presiding Officer under the Industrial Dispute Act, Labour Court, Raigarh (CG).

---Respondents

For Petitioner	:	Shri Vinod Deshmukh, Advocate.
For Respondents	:	None, inspite of matter being taken up in the second round.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24.02.2021

1. The challenge in the present writ petition is to the award passed by the Labour Court, Raigarh, in case No.03/ID Act/2008 (Reference), dated 07.07.2010. Vide the said award the Labour Court had granted the relief of reinstatement without backwages in favour of the respondent-worker.
2. The challenge to the said award is on the ground that the impugned award passed by the Labour Court is totally perverse and contrary to the pleadings and evidence which has been led by the parties and as such the same is not tenable. It is further contention of the petitioner that the Labour Court has not properly appreciated the pleading/statement of claim of the worker as also the evidence that he has led wherein it has not been established that the worker has been working with the petitioner at any point of time or any proof has been produced to substantiate the same so as to establish the employer-employee relationship. It is further contention of the petitioner that even the pleadings do not have the period of service rendered by the worker before discontinuance so as to determine whether

he has worked for a period of 240 days in a calendar year. All these facts ought to have been scrutinized and appreciated by the Labour Court before the impugned award was passed, but the same has been passed only in a mechanical manner.

3. On perusal of records it reveals that the respondent-worker had infact raised a dispute before the State Govt. in respect of his alleged discontinuance and the State Govt. vide order dated 28.02.2008 has made a reference to the Labour Court to determine-

“Whether the termination of the services of Akhil Bihari Panda S/o late Narayan Panda was proper, legal and justified? If not, what relief the applicant would be entitled for and what direction in this regard could be issued to the non applicant?”

4. The matter was referred to the Labour Court where the case was registered as case No.03/ID Act/2008 (Reference). The respondent-worker entered appearance and filed their statement of claim. Perusal of statement of claim would clearly reveal that the details of his employment is not reflected in his statement of claim. Likewise, the statement of claim also reveals that the worker has not sought for relief of reinstatement and consequential benefits, but has only sought for loss of salary for a period of two years and compensation. The petitioner herein, non-applicant before the Labour Court entered appearance and submitted their statement whereby the employment was categorically denied and the entire statement of claim was denied and disputed by the petitioner herein. The worker thereafter entered appearance before the Labour Court and submitted his evidence. Along with his evidence he has adduced three more witnesses.
5. A bare perusal of evidence rendered by the respondent worker and three other witnesses it is evidently clear that none of the witnesses including

the worker himself have provided the details of the employment under the petitioner. No period has been specified to assess whether he has put in more than 240 days of service before discontinuance. Moreover, in his examination in chief itself he has made a statement that w.e.f. 21.11.2006 he himself has stopped going to work which again forces this court to draw an inference that the worker himself has voluntarily stopped going to work rather than discontinuance by the petitioner. Moreover, the three witnesses examined on behalf of the worker also have not supported the case of the worker in any manner as in their examination in chief all these private witnesses have made statement that they are not aware of the period that the worker had rendered services with the petitioner establishment. What was his salary, what was the nature of work etc. also has not been disclosed by them. The entire evidence adduced by the worker is totally balled without any specific details which could be gathered.

6. Under the circumstances, the findings arrived at by the Labour Court is unsustainable and is contrary to the evidence available on record or atleast the evidence which have been brought on record before the Labour Court. Since the pleadings, the evidence of worker as also the evidence of other witnesses examined is bereft of details and informations so far as establishment of the employer-employee relationship; the period and nature of employment; the details of salary etc. the findings arrived at by the Labour Court can be safely held to be a perverse finding of fact and contrary to evidence on record and which is hard to sustain the test of judicial scrutiny permissible.
7. Under the circumstances, the award of the Labour Court is set aside. The claim of the worker raised before the Labour Court is ordered to be rejected for want of necessary details and informations required for proving his case before the Labour Court.

8. The writ petition filed by the employer-management accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder