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HIGH COURT OF CHHATTISGARH AT BILASPUR**WP(L) No. 207 of 2012**

State of Chhattisgarh through Divisional Forest Officer, Forest Division, Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. Sharda Bai Yadav W/o Tikuram Yadav, R/o Village Bhatapar, Dongargaon, P.S. Dongargaon, District Rajnandgaon, Chhattisgarh
2. Presiding Officer, Labour Court, Rajnandgaon, Chhattisgarh

---Respondent

For Petitioner	:	Mr. Jitendra Pali, Dy. Advocate General
For Respondent No.1	:	Mr. Atanu Ghosh, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****26/08/2021**

1. Aggrieved by the order passed by the Labour Court, Rajnandgaon on 05.05.2010 in case No. 147/ I.D. Act/ Ref. /2008, the present writ petition has been filed.
2. Vide the impugned award, the Learned Labour Court, Rajnandgaon has answered the reference in the affirmative holding that the discontinuance of service of the respondent- worker by the petitioners was in violation of Chapter V of the Industrial Disputes Act and while allowing the reference has ordered for reinstatement without back wages.
3. The admitted factual position as it stands from the pleadings and evidence led by either party is that the respondent-worker was engaged as a daily wage worker on 01.09.1987. She continued to

work under the petitioners till March, 2000 when her services were abruptly discontinued in total contravention to the provisions of the Industrial Disputes Act, particularly the provisions of Chapter V of the Industrial Disputes Act. The discontinuance from service by the petitioner was challenged by the respondent-worker by raising an industrial dispute under the provisions of Industrial Disputes Act. The State Government made a reference to the Labour Court, Rajnandgaon for answering the reference where the case was registered as 14/IDAct/Reference/2010.

4. That immediately after the impugned award was pronounced on 29.06.2010, the State authorities have complied with the award and reinstated the worker in 2010 itself and since then she has been continuously working. The State counsel, on a query being put today, submits that the respondent-worker is still working as a daily wage employee. Thus, she puts in around 11 years of service after the impugned order was passed. The respondent-worker as on date is aged around 57 years.
5. According to the respondent-worker, it is a case where the evidence led by the worker has gone unrebutted before the labour Court inasmuch as, in spite of opportunity, no evidence has been led by the petitioner employer before the labour Court. Thus, the evidence of the worker has been accepted by the labour Court and has given finding of fact. According to the worker, since the award is a finding of fact, the scope of interference is minimal for this Court to interfere and that the petitioner has not made out the case of perverse finding or excess of jurisdiction by the labour Court in deciding the matter under which this Court can interfere with the award
6. On perusal of pleadings and the contentions put forth by the

petitioner and taking note of the finding of the Labour Court, this Court has no hesitation in reaching to the conclusion that the finding arrived at by the Labour Court is a finding of fact based upon the evidence both oral and documentary that has been brought before the Labour Court. There is nothing on record by which it can be said that the finding is a perverse finding or contrary to the evidences on record. Thus, the scope of interference to a finding of fact gets reduced to minimal.

7. One has also to appreciate the fact that this Court while entertaining the writ petition under Article 226 of the constitution of India does not sit as an Appellate Authority over the finding of a Labour Court. The right conferred upon this Court is only to the extent of verifying whether there has been an excess of jurisdiction or any perversity on the part of the Labour Court while deciding the matter in the course of passing of the impugned award. No such grounds strong enough have been made out by the petitioner calling for an interference to the award passed by the Labour Court. It is also settled position of law that the High Court would not threadbare consider the entire evidence that has been adduced before the Labour Court and reach to a different conclusion which again is impermissible.
8. 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.
9. 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.....”

10. 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.”

11. 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 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.]”

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

13. As regards the contentions of the State Counsel so far as granting of lump sum compensation in lieu of reinstatement and the judgments relied upon by the State in this regard, this Court is of the opinion that those judgments can not be applied in the factual backdrop of this case for the reasons that the cases referred to and relied by the Petitioners/State are those where the worker involved in a dispute had worked for a very few period of time as compared to the greater period of time he has remained out of employment. In the instant case, on the contrary and admittedly the worker had put in continuous 13 years of service i.e. more than a decade of service between 1987 to 2000 and from the date of award also if the records are to be believed, the State has complied with the Award and taken the worker back in service. After reinstatement also the worker has put about 11 years of service. Moreover, it would be unjustified at this juncture, when the petitioner has reached the age of around 57 years to discontinue her from service after paying her a lump sum compensation in lieu of reinstatement, as the worker would not be in a position of seeking a fresh employment elsewhere at this stage of her life.

14. For all the aforesaid reasons, this Court is of the opinion that no strong case as such has been made out calling for an interference with the impugned award. Thus affirming the impugned award the

writ petition stands rejected.

15. No order as to cost. Consequences to follow.

**Sd/--
(P. Sam Koshy)
Judge**

Khatai