

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 49 of 2020**

1. State Of Chhattisgarh Through The Secretary, Department Of Water Resources, D.K.S. Bhawan, Mantralaya, Raipur, 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 Research Officer Minimata Bango, Quality Control Unit, Sakti, District Janjgir Champa, Chhattisgarh.

--- Appellant

Versus

- Jagdish Yadav S/o Late Pusauram Yadav aged about not known, R/o Nahar Colony, Post Akaltara, Tahsil And District Janjgir Champa, Chhattisgarh.

--- Respondent

WA No. 341 of 2020

1. State Of Chhattisgarh, Through - Secretary, Water Resources Department, Mantralaya Bhawan, Raipur Chhattisgarh. (Petitioner No. 1 Was Not A Party Before The Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Government Through The Secretary Of Concerned Department)
2. The Executive Engineer, Kharang Water Resources Division Bilaspur Chhattisgarh.
3. The Sub Divisional Officer, Sarvekshan Water Resources Sub Division Bilaspur Chhattisgarh.

--- Appellant

Versus

1. Santosh Kumar Sahu S/o Bahur Ram Sahu, Aged About 40 Years R/o Village Jawahar Nagar, Akaltara, District Janjgir Champa Chhattisgarh.
2. The Presiding Officer, Labour Court, Bilaspur Chhattisgarh.

--- Respondent

For Appellant : Shri Sudeep Agrawal, Deputy AG.
For Respondent in WA 49/2020 : Shri SP Kale, Advocate.

**Hon'ble Shri Prashant Kumar Mishra, Ag CJ &
Hon'ble Smt. Rajani Dubey,J**

Order On Board By Prashant Kumar Mishra, Ag CJ

26/08/2021 :

1. In both the Writ Appeals, challenge is to the order passed by the learned Single Judge dismissing the writ petitions preferred by the State, which in turn were preferred against the order passed by the Labour Court directing the respondents workmen's reinstatement without back wages.
2. The only ground which was pressed before the learned Single Judge and in these Writ Appeals as well is that a dispute was raised under Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act of 1947') after 11 years of accrual of cause of action, therefore, the claim was barred by delay and laches, and the Labour Court should have answered the reference against the workmen while passing the award on 5.6.2010 and 3.7.2010 respectively.
3. The Labour Court has referred to the order passed by the Hon'ble Supreme Court in the matters of **State of Punjab Vs. Anil Kumar** {(2007) 9 SCC 663}, and **Gurmel Singh Vs. Principal Government College of Education & Others**, {2000 (84) FLR 920} and that of the Chhattisgarh High Court in the matter of **Ram Kumar Suryavanshi Vs. State of Chhattisgarh & Others** {2006 (111) FLR 946} to hold that since the provisions of Limitation Act do not apply and there is no limitation provided for making a reference under Section 10 of the Act of 1947, the

reference is to be considered on merits.

4. Learned Single Judge has also referred to Article 137 of the Limitation Act and the law laid down by the Hon'ble Supreme Court in the matter of **Ajab Singh Vs. Sirhind Cooperative Marketing-cum-Processing Service Society Limited and Another** {(1999) 6 SCC 82} and further referred to the amendment inserted in the Act of 1947 with effect from 15.9.2010 providing, for the first time, the bar of limitation in entertaining industrial dispute and making reference under Section 10.
5. In the present case, reference was made on 20.11.2009 and 30.11.2009 i.e. before amendment prescribing limitation of 3 years was inserted with effect from 15.9.2010.
6. Moreover, during the pendency of these Writ Appeals, the State Government has already regularized the respondent workmen. True it is that in the regularization order, it has been mentioned that the same shall remain subject to the order passed in these Writ Appeals, the fact remains that the award passed by the Labour Court has already been acted upon and there is no interim order in these Writ Appeals allowing the State to regularize subject to final order in these Writ Appeals.
7. In view of the aforesaid, we are not inclined to interfere with the orders passed by the learned Single Judge in both the Writ Appeals.
8. Resultantly, both the Writ Appeals being devoid of any substance deserve to be and are hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-
(Rajani Dubey)
Judge