



2026:CGHC:14743



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPL No. 20 of 2024**

1 - Gulab Prasad Kosariya @ Gulal Prasad Kosariya S/o Gorelal Kosariya
Aged About 43 Years R/o Village Kalae Post Rasani, Police Station And Tehsil
Arang, District : Raipur, Chhattisgarh

... Petitioner**versus**

1 - Director, Chhattisgarh State Renewable Energy Development Agency
(Creda) Head Office Village Fundher, Vip Road, In Front Of Urja Park,
District : Raipur, Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Shahid Ahmed Ansari, Advocate
For Respondent	:	Ms. Akruti Singh, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey**Order on Board****30.03.2026**

1. Heard.
2. The petitioner has filed this petition challenging the award passed by the learned Labour Court No.1, Raipur, District Raipur (C.G.) in Case No.01/I.D.Act/Reference/2014 dated 08.05.2023, whereby, learned Labour Court has rejected the statement of claim and answered the reference in negative.
3. The facts in brief are that the statement of claim was filed by the petitioner/workman before the learned Labour Court interalia on the ground that he was engaged under the respondent in the year



2009 as daily rated employee and he was getting salary of Rs.5,000/- per month. It is further stated that he worked there for a period of four years and without assigning any reason and without affording any opportunity of hearing, his services were discontinued. It is also stated that an experience certificate was issued in his favour and he worked under the respondent for 240 days in a calender year. The workman pleaded that his services were discontinued contrary to the provisions of the Industrial Disputes Act, 1947 (for short 'the Act of 1947').

4. The respondent filed reply and denied the contents. A specific plea was taken that the petitioner was engaged by placement agency and he was never engaged as daily rated employee.
5. Learned Labour Court framed issues; the parties led evidence and thereafter, award was passed.
6. Mr. Ansari, Advocate appearing for the petitioner would submit that sufficient evidence was produced before the learned Labour Court to demonstrate that the petitioner was engaged as daily rated employee under the respondent. He would further submit that employer failed to rebut evidence led by the petitioner. He would contend that an experience certificate was issued in his favour on 22.11.2011 vide Ex.P/4-C but said document has not been taken into consideration by the learned Labour Court. He would further contend that the award passed by the learned Labour Court deserves to be set aside.
7. On the other hand, Ms. Singh, learned counsel appearing for the



respondent would oppose submissions advanced by Mr. Ansari.

She would submit that the petitioner was engaged by placement agency and he was never engaged by the employer. She would further submit that the petitioner failed to establish his engagement as daily-rated employee under the respondent by leading documentary evidence. She would submit that it has not been established by the workman that he worked for 240 days in a calendar year rather the respondent adduced sufficient evidence to demonstrate that the workman was engaged through placement agency and therefore, the learned Labour Court rejected the statement of claim and answered the reference in negative. She would submit that the present petition deserves to be dismissed.

8. Heard learned counsel appearing for the parties and perused the record.
9. In evidence, the petitioner stated that in the year 2009, he was engaged as daily-rated employee under the respondent and by oral order, his services were discontinued. This witness further stated that in the month of January, 2012, he was engaged in the office of Junior Administration Officer, Creda and he worked for 240 days in a calendar year. In cross-examination, this witness admitted the fact that he never submitted an application for employment. He also admitted that no order of appointment was issued in his favour. He denied the suggestion that he was engaged with M/s. Call Me Services. In para 35, this witness admitted the fact that he has not placed on record documents with



regard to payment of wages. He further admitted that he has no knowledge with regard to PF deduction. It is also admitted that experience certificate does not contain seal or designation of authority.

10. The respondent examined Jagat Narayan Bega, who categorically deposed that workman was engaged by the placement agency and experience certificate is a forged document.

11. Chandrashekhar Sharma, the private secretary to Creda stated that the petitioner was engaged by placement agency and experience certificate was never issued by him in his favour.

12. A perusal of the documents would reveal that the petitioner has not placed muster-roll, order of appointment and payment slips to demonstrate that he continuously worked for 240 days in a calendar year. It is not stated and proved that the services of the petitioner were discontinued on a particular date.

13. It has been well settled legal position that for getting protection of Section 25(f) of the Industrial Disputes Act, it is incumbent on the part of the workman to plea and prove the continuous 240 days service preceding date of termination. Section 25(B) defines continuous service and Section 25(F) provides grant of retrenchment compensation to the workman.

14. Sections 25-B and 25-F of the Industrial Dispute Act are extracted below:-

"25B. Definition of continuous service. For the purposes of this Chapter,--



(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) ninety- five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

25F. Conditions precedent to retrenchment of workmen.-No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until--

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2 for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government 3 or such authority as may be specified by the appropriate Government by notification in the Official Gazette].



15. Coming to the facts of the case that there is no evidence that the petitioner was an employee of the respondent and no documentary evidence was placed on record to substantiate that petitioner worked for 240 days in a preceding 12 months before the date of termination. The self-serving statement of the petitioner cannot establish that he worked for 240 days in preceding 12 months before the date of termination which is essential requirement for getting protection under Sections 25(f) of the Industrial Dispute Act.

16. Hon'ble Supreme Court in case of **Municipal Corporation, Faridabad vs. Siri Niwas**, reported in **2004(8) SCC 195** has held as under:-

"14. For the said purpose it is necessary to notice the definition of 'Continuous Service' as contained in Section 25-B of the Act. In terms of sub-Section (2) of Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. By reason of the said provision, thus, a legal fiction is created. The retrenchment of the respondent took place on 17.5.1995. For the purpose of calculating as to whether he had worked for a period of 240 days within one year or not, it was, therefore, necessary for the Tribunal to arrive at a finding of fact that during the period between 5.8.1994 to 16.5.1995 he had worked for a period of more than 240 days. As noticed hereinbefore, the burden of proof was on the workman. From the Award it does not appear that the workman adduced any evidence whatsoever in support of his contention that he complied with the requirements of Section 25B of the Industrial Disputes Act. Apart from examining himself in support of his contention he did not produce or call for any document from the office of the Appellant herein including the muster rolls. It is improbable that a person working in a Local Authority would not be in possession of any documentary evidence to support his claim before the Tribunal. Apart from muster rolls he could have shown the terms and conditions of his offer of appointment and the remuneration received by



him for working during the aforementioned period. He even did not examine any other witness in support of his case."

17. Learned Labour Court has appreciated documentary as well as oral evidence and thereafter, dismissed the statement of claim and answered the reference in negative.

18. From the above legal position and considering the fact of case, it is quite clear that the petitioner has not produced any cogent evidence to demonstrate that he worked for 240 days in a calendar year, therefore, there is no illegality or perversity in the order dated 08.05.2023 passed by the learned Labour Court which warrants interference by this Court exercising power under Article 226 of the Constitution of India. Accordingly, this petition fails and is hereby **dismissed.**

Sd/-

(Rakesh Mohan Pandey)
Judge