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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 111 of 2017

1 - State Of Chhattisgarh Through The Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, Naya Raipur , Chhattisgarh., Chhattisgarh

2 - Executive Engineer, Public Works Department, Khairagarh, Division Khairagarh District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

... Petitioners

versus

1 - Jameel Khan S/o Mehaman Khan, R/o Village Nawagaon, Police Station Salhewara, Tahsil Chulkhadan, District Rajnandgaon, Chhattisgarh., Chhattisgarh.

2 - Shatrughan, S/o Cherkuram Marar, R/o Village Nawagaon, Police Station Salhewara, Tahsil Chulkhadan, District Rajnandgaon, Chhattistgarh.

3 - Dadu Lal, S/o Ramlu Marar, R/o Village Nawagaon, Police Station Salhewara, Tahsil Chulkhadan, District Rajnandgaon, Chhattistgarh.

4 - Narottam, S/o Kartik Marar , R/o Village Nawagaon, Police Station Salhewara, Tahsil Chulkhadan, District Rajnandgaon, Chhattistgarh.

... Respondents

{Cause title, as taken from CIS}

For Petitioner	: Mr. Rohitashva Singh, Deputy Government Advocate
For Resp. No. 1 & 2	: Ms. Rakshita Mishra, Advocate holding brief of Mr. Chandresh Shrivastava, Advocate

For Respondents No. 3 & 4 None present.

Hon'ble Shri Justice Sachin Singh Rajput

Order On Board

20/02/2026

1. The petitioner/ State has filed this petition assailing the legality, Correctness and judicial propriety of the award dated 24.08.2016 pronounced on 28.11.2016 by the Judge under the ID Act, Labour Court, Rajnandgaon in Case No. 16/ID Act/2013 (Reference). By the impugned award, the termination of the services of respondent No. 1 & 2 was set aside and they were directed to be reinstated / back in services.

2. Facts of the case as reflected from the documents are that the respondents filed a statement of claim before the Labour Court against their oral retrenchment by the petitioners-Department. During pendency of the case before the learned Court, the respondent No. 3 & 4 abandoned their claim and the respondent Nos. 1 & 2 proceeded ahead with their statement of claim. According to the statement of claim, the respondents No. 1 to 3 were working as labourer with the petitioner/State. They started working with the petitioners- Department from 04.05.1996, their work profile was with regard to repairing of roads, painting in the government buildings, etc. They were being paid Rs. 22,500/- per month as wages. On 30.10.2008, the petitioners/State removed them from their services without any notice being given. They were continuously worked with the petitioners-Department from 1996 to 2008. They also continued to work for more than 240 days in one calender year before their removal. Their work was also satisfactory. The documents to show their continuous working is in possession with the petitioners/State. It is further pleaded that in place of respondent Nos. 1 & 2, the other labours are working. The respondent Nos. 1 & 2 were

illegally retrenched without giving any notice or paying any retrenchment compensation, which comes under the category of illegal retrenchment. Thus, seeking the aforesaid reliefs, the statement of claim was filed.

3. The Statement of claim was duly replied by the petitioners/State denying the averments made in the statement of claim. It has been pleaded that the respondent Nos. 1 & 2 were never appointed with the petitioners-Department and therefore question of their removal from services does not arise. The reply states that as per instructions of the Government, preparation of muster-roll was stopped. Further, as the respondents No. 1 & 2 /labourer were working under the Contractors, there was no direct relationship of employer and employee between the petitioners/State and the respondent Nos. 1 & 2. It has also been denied that they were orally removed from services with effect from 30.10.2011 by the petitioners-Department. Being all this, dismissal of the statement of claim filed by the respondents – employees, was sought to be dismissed.

4. On the basis of above broad pleadings, the issues have been framed by the learned Labour Court, which read thus:

<u>वाद प्रश्न</u>	<u>निष्कर्ष</u>
01. क्या प्रथमपक्षकार का सेवा पृथक्कीकरण वैध एवं उचित है? यदि नहीं तो इस संबंध में नियोजक/द्वितीयपक्ष को क्या निर्देश दिये जाने चाहिए?	आदेशानुसार।
02. क्या द्वितीयपक्षकार के द्वारा प्रस्तुत स्टेटमेंट ऑफ क्लेम के उत्तर में ली गई आपत्ति के प्रकाश में प्रथमपक्षकार का आवेदन/ स्टेटमेंट ऑफ क्लेम निरस्त किये जाने योग्य है?	आदेशानुसार नहीं।
03. क्या प्रथमपक्षकार बेरोजगार है?	आदेशानुसार नहीं।
04. क्या प्रथमपक्षकार पिछला वेतन पाने का अधिकारी है?	आदेशानुसार नहीं।
05. सहायता एवं व्यय?	आदेशानुसार।

5. The parties led evidence to prove their respective pleadings.

Learned Labour Court decided the issues in favour of the respondent Nos. 1 & 2/employees and against the petitioners/State by the impugned award. Thus, instant writ petition has been filed by the petitioner/state challenging the same.

6. Learned counsel for the petitioners submits that the finding recorded by the learned Labour Court while deciding the issues against the petitioner/State is bad in law. He submits that it is the respondent Nos. 1 & 2, who were supposed to prove the fact that they continuously worked for more than 240 days in one calendar year before their removal, but they utterly failed to do so. It is further submitted that four persons filed their statement of claim jointly which is impermissible in law. It is next submitted that once the burden of proving the continuous working of 240 days in one calendar year, preceding the date of retrenchment, has not been discharged by the respondents No. 1 & 2/employees, the impugned award dated 24.8.2016 is liable to be set aside.

7. On the other hand, learned counsel for respondents No. 1 & 2/employees while opposing the submission made by counsel for the petitioner would submit that since the documents with regard to attendance and working of respondents No. 1 & 2/employees were in possession of the petitioners-State, the respondents No. 1 & 2 made several applications for providing them the same under to Right to Information Act, but they were not provided. In cross-examination, it has been stated that muster rolls are in possession of the petitioners/State and they failed to produce the same before the Labour Court. It is submitted that Labour Court held that petitioners on the strength of oral evidence, reappeared to prove continuous working of 240 days in one preceding calendar year prior to the date of

removal, It is thus submitted that the finding of fact recorded by learned Labour Court is based on proper appreciation of evidence and material available on record, which does not call for any interference in the instant petition under Article 226 of the Constitution of India.

8. I have heard learned counsel for the parties and perused the material available on record.

9. First contention raised by learned counsel for the petitioner is that the respondents could not prove that they continuously worked with the petitioners-State for 240 days in one calendar year prior to the date of their retrenchment. Respondents No. 1 & 2 have examined themselves to fortify their stand. They have categorically stated about their continuous working for 240 days in one calendar year. It has also come on record that muster-rolls are maintained by the office of petitioners-State, which has even been admitted by its witnesses.

10. Perusal of record would also indicate that the applications were filed by respondents No. 1 & 2 with regard to demand of muster-roll, which have been denied. From the evidence available on record, learned Labour Court while deciding the issue No. 1 has categorically held that witnesses of the petitioners-State could not speak as to how many workers were working during the period 1996 to 2008. It has also been admitted that muster-roll documents are there in possession of the petitioners -State. It has also been observed by learned Labour Court relying upon the statements of the petitioners' witnesses that muster-roll have not been filed by them in the record. It has also been admitted that 22 days were working days in his Department and no retrenchment compensation was paid to the labourers. It has also been observed by learned Labour Court that there is admission on

the part of the witnesses of the petitioners-State that in their Department, there are 26 working days. On the assessment of the evidence available on record, learned Labour Court found that before terminating the services of respondents No. 1 & 2, neither any prior notice was given to them, nor one month salary was given nor even any retrenchment compensation was granted by them, which is a clear violation of provisions contained in Section 25F of the Industrial Disputes Act, 1947. Learned Labour Court has categorically recorded a finding that if an employee has worked continuously for 240 days or more in a calendar year, he is eligible to get the status of permanent employee. Learned Labour Court has also recorded a finding that petitioners-Department failed to adhere to the principles of natural justice before terminating the services of respondents No. 1 & 2, and the principle of “first come last go” was also not followed. Thus, the Labour Court has set aside/quashed the order terminating the services of respondents No. 1 & 2 being illegal and unreasonable.

11. The Supreme Court in case of Harijinder Singh Vs Punjab State Warehousing Corporation[2010(3) SCC 192] has 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 other similar legislative instruments are social welfare legislation 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 43A 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 sub-serve the common good and also ensure that the workers get their dues. More than 41 years ago, Gajendragadkar, J, opined that:

".....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" (State of Mysore v. Workers of Gold Mines AIR 1958 SC 923AIR p. 928, Para 10)" This view has further been reiterated in the case of Bhuvnesh Kumar Dwivedi Vs. Hindalco Industries Limited [2014(11) SCC 85]..

12. Once the documents, which could have proved the fact that the respondents No. 1 & 2 worked for 240 day in a preceding calender year before termination with the petitioners-Department, the best evidence was withheld by the petitioners-Department, despite admission in the evidence regarding muster-roll on record. There was no occasion for the petitioners-Department to withhold such documents. Being that, this Court is not inclined to have a different view, which has already been taken by the learned Labour Court that the petitioner-department has failed to prove the fact that respondents No. 1 & 2 did not work with it for 240 days in one calender year before termination.

13. So far as second contention raised by counsel for the petitioner that the statements of claim filed by the respondents jointly is not permissible in

law is concerned, of course, four number of labourers have filed their statement of claim jointly before the Labour Court, out of whom, two have withdrawn their statements of claim and order of retrenchment was passed in respect of only two persons i.e. respondents No. 1 & 2. Though the objection was taken by petitioner-department in this regard, in absence of any bar with regard to such plea, this Court is not inclined to entertain the second contention raised by the petitioners.

14. Having regard to the facts and circumstances of the case, this Court does not find any irregularity or illegality in the finding recorded by learned Labour Court warranting interference of this Court under Article 226/227 of the Constitution of India.

15. Accordingly, writ petition, being devoid of substance, is liable to be and is hereby dismissed. No cost (s).

Sd/-

(Sachin Singh Rajput)
Judge

Ami