



2026:CGHC:17759

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 4 of 2020

Ghanar @ Ghanaram Kashyap (Wrongly Typed In Award Ghanaram Kashyap),
S/o Late Badri Prasad Kashyap, R/o Vill- Mudpar, Post- Khisora, Tah.
Navagarh, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa,
Chhattisgarh.
... Petitioner

versus

- 1** - State Of Chhattisgarh Through The Secretary, Department Of Water
Resources, Mantralaya Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh,
District : Raipur, Chhattisgarh.
- 2** - Executive Engineer, Hasdeo Nahar Water Management, Janjgir, District
Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh.
... Respondent(s)

For Petitioner	:	Mr. Sahil Sahu, Advocate, holding the brief of Mr. Ravindra Sharma, Advocate
For State	:	Mr. Kawaljeet Singh Saini, Deputy Government Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

20/04/2026

1. The workman has filed this petition challenging the award dated
14.09.2018 passed by the learned Labour Court in Case No. 19/ I.D.
Act/Ref./2013, whereby the reference has been answered in negative
and the statement of claim has been dismissed.

2. Brief facts of the present case are that the petitioner/workman was engaged with the respondent in the year 1984 and his services were discontinued in the year 1996, thereafter, the petitioner raised industrial dispute before the Conciliation Officer, Janjgir-Champa and Competent Government made a reference before the learned Labour Court framing following question of determination:—

“As to whether the termination of Ghanar @ Ghanaram Kashyap S/o. Late Badri prasad kashyap is legal and proper? And what direction should be issued to the respondent in this regard.”

3. The workman, in the statement of claim, pleaded that he was engaged as a daily-rated employee in the year 1984 and his services were discontinued in the month January, 1996. It was further pleaded that he worked continuously more than 240 days in a calender year; further, he continuously worked from 1984 to 1996, but his services were discontinued without complying with the provisions contained in Sections 25F and 25H of the Industrial Disputes Act, 1947.
4. The respondent No.2 filed its reply and denied the averments made in the claim statement. The petitioner examined himself and exhibited documents Exhibits P-1 to P-53 to establish that he had worked continuously from 1984 till 1996.
5. The learned Labour Court dismissed the statement of claim on the ground that the petitioner was required to establish the fact that he worked for 240 days continuously in a calendar year.
6. Learned counsel appearing for the petitioner would submit that the petitioner/workman adduced documentary as well as oral evidence to substantiate that he had worked for 240 days in a calendar year and he continuously worked from 1984 to January, 1996, therefore, the learned Labour Court committed an error of law while dismissing the statement of claim.

7. On the other hand, Mr. Saini, Dy. G.A. appearing for the State would submit that the petitioner failed to substantiate that he worked for 240 days in a calendar year; thus, the learned Labour Court has rightly dismissed the claim.
8. Heard.
9. Earlier, writ petitions (WPL No.151 of 2014 along with connected matters) were filed and the matter was remitted back to the learned Labour Court, and the following observations were made in paragraph 11:

“(11) In view of the above findings recorded by the Labour Court, it is clear that no specific finding has been recorded to establish that the employee concerned had, in fact, completed 240 days in the last preceding 12-month period prior to the date of termination. The Labour Court has merely recorded a finding that the termination of the workman falls within the definition of retrenchment and that the mandatory provisions relating to retrenchment were not followed, thereby violating the principles of natural justice. The Labour Court ought to have recorded a specific finding that the workman had worked continuously for 240 days in a year so as to entitle him to the benefits under Section 25-F of the Industrial Disputes Act, 1947, as held by the Hon’ble Supreme Court in the matter of *Krishna Jal Nigam (supra)*. Thus, I deem it appropriate to remit the matter back to the Labour Court to consider it afresh. The Labour Court shall record a specific finding as to whether the workman had worked for a continuous period of 240 days in a calendar year preceding the date of termination. It shall also record a specific finding with regard to the principle of "last come, first go." Such an exercise shall be completed by the Labour Court within a period of 45 days from the date of receipt of the certified copy of this order.”

10. From 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.
11. It is 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 plead 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.
12. 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].

13. In the present case, no documentary evidence has been 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.

14. 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."

15. Learned Labour Court has appreciated documentary as well as oral evidence and thereafter, dismissed the statement of claim and answered the reference in negative.
16. Taking into consideration the facts of the case & law laid down by the Hon'ble Supreme Court, it is quite clear that the petitioner has not produced any cogent evidence to demonstrate that he worked for 240 days in a calender year, therefore, there is no illegality or perversity in the order dated 14.09.2018 passed by the learned Labour Court warranting 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

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