



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Writ Appeal No. 355 of 2014Surit Ram **Versus** State of Chhattisgarh and Another

Along with

Writ Appeals No. 317 of 2014, 378 of 2014, 390 of 2014 and 392 of 2014

22/12/2016	Shri Vinod Deshmukh, Shri Harshal Chouhan and Shri K.P.S. Gandhi, Advocates for the respective Petitioners. Shri Yashwant Singh Thakur, Additional Advocate General for the State. The main question which arises for consideration in these cases is as to what relief the workmen are entitled to when their termination from services is held to be bad. Should this result in automatically reinstatement of the workmen with full back-wages or partial back-wages or with no back-wages or should the workmen be compensated by payment of monetary compensation and denied the relief of reinstatement and back-wages. Another question which arises is what is the power of judicial review vis-a-vis the relief granted by the Labour Court. This question arises in a large number of cases. There are various judgments of the Apex Court on this aspect of the matter. The Apex Court has laid down various principles as to in which cases reinstatement should be given, in which cases back-wages should be granted and in which cases the order of reinstatement and payment of back-wages is not justified and	



compensation is the adequate relief available to the workmen. We are aware that there can be no hard and fast formula which can be laid down and each case has to be decided on its own merits. However one of us (Chief Justice) has been observing for the last six months that there are absolutely conflicting judgments being delivered by the different Single Benches of this Court and that is why this matter was taken up in the Division Bench.

Before the Division Bench, two judgments have been cited, one on behalf of the claimants being Writ Appeal No. 568 of 2015 in which the benefit of reinstatement and order of reinstatement passed by the Labour Court was confirmed. There is no detailed discussion with regard to various judgments of the Apex Court. The other case cited is Writ Appeal No. 50 of 2011. Though in this case, there is some discussion with regard to the judgments of the Apex Court, we are of the view that even in this case, the matter has not been discussed threadbare and various judgments of the Apex Court have not been considered. The matter does not end here. Even after the aforesaid judgments delivered, there are now fresh judgments of the Apex Court in this regard.

Therefore, it is felt that these issues which arise day in and day out before this Court require to be considered by a Full Bench. The following questions are therefore referred to the Full Bench:

(i) What is the extent of the power of judicial review under Article 226 and 227 of the Constitution of India and whether the



writ court can interfere in the relief granted by the Labour Court/Industrial Tribunal and if so under what circumstances?

(ii) Whether in a case where retrenchment of the workmen is held to be violative of provisions of the Industrial Disputes Act, the workmen is automatically entitled to be reinstated or can compensation be granted in place of reinstatement?

(iii) What are the parameters for deciding in which cases reinstatement should be granted and in which cases the relief of compensation should be granted?

(iv) What are the parameters to decide in which cases the workmen be granted full back-wages or partial back-wages and in which cases the workmen should be denied benefit of back-wages?

(v) What is the effect of delay on the part of the workman in approaching the appropriate authority for challenging his order of termination?

The matters be placed on the administrative side before one of us (Chief Justice) for constituting a Full Bench.

Sd/-

(Deepak Gupta)
Chief Justice

Sd/-

(Sanjay Agrawal)
Judge