



2026:CGHC:12492



2026:CGHC:12492

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 189 of 2023

* - M/s Jayaswal Neco Industries Ltd. Through Its Managing Director, Having Office At Siltara Raipur, Tahsil And District - Raipur, Chhattisgarh

--- Petitioner

Versus

* - Ravi Kumar Sahu S/o Late Bhulauram Sahu Aged About 28 Years R/o Village Mandhar, P.O. Mandhar, Tehsil - Dharsiwa, District - Raipur, Chhattisgarh

--- Respondent

And

WPL No. 10 of 2024

* - M/s Jayaswal Neco Industries Ltd. Through Its Managing Director, Having Office At Siltara - Raipur, Tahsil And District Raipur, Chhattisgarh

---Petitioner

Versus

* - Vishnu Verma S/o Itwari Ram Verma Aged About 39 Years R/o Village Raita, P.O. Manohara, Tahsil-Dharsiwa, District Raipur, Chhattisgarh

--- Respondent

For Petitioner/Management : Mr. Trivikram Nayak, Advocate

For Respondents/Workmen : Mr. Sudeep Johri, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

16/03/2026

1. The petitioner has preferred these two petitions challenging the order(s) and award(s) passed by the learned Labour Court (ID Act), Raipur in Case No. 34/I.D. Act/2015 and Case No. 35/I.D. Act/2015 dated 01.11.2022, whereby the statement of claim filed by the workmen have been allowed and the employer has been directed to



reinstate them in service within period of 45 days with 25% of back wages.

2. The facts, in brief, are that workman/respondent- Ravi Kumar Sahu (WPL No. 189/2023) was working with the petitioner to the post of Junior Assistant since 21.12.2009 and workman/respondent- Vishnu Verma (WPL No. 10/2024) was working with the petitioner to the post of Junior Assistant since 31.07.2007. Their services were confirmed by the employer. The workmen were served with Articles of Charge on the ground that they were involved in tampering milometer of vehicles of the Company. The said Articles of Charge were issued on 01.12.2014. Both the workmen filed their reply to Articles of Charge on 06.12.2014 and 05.12.2014 respectively. Subsequent to filing of replies to Articles of Charge, both the workmen tendered their voluntarily resignations on 14.01.2015 and their resignations were accepted by the employer. The workmen made complaint before the police authorities on 20.05.2015 which was registered under Section 155 of CrPC. It is also stated in the statement of claim that the complaint was made to the Assistant Labour Commissioner and consequently conciliation proceedings were drawn and finally the workmen were advised to approach Competent Court. Both the workmen examined themselves before the learned Labour Court, exhibited documents, but the employer failed to examine any witness and finally the impugned awards were passed.
3. Mr. Trivikram Nayak, learned counsel appearing for the employer would argue that the Articles of Charge were issued against the workmen on 01.12.2014, where specific allegations were that they tampered with milometer of the trucks engaged with the company for transportation of the goods. He would contend that the workmen filed



their reply wherein they categorically stated that in future they would never repeat such mistake. He would submit that on 14.01.2015 both the workmen tendered their resignations and same were accepted by the management on 14.01.2015. He would contend that the workmen made complaint before the police authorities after 04 months on 20.05.2015 without explaining delay part. He would submit that the workmen could not place on record complaints made to the Assistant Labour Commissioner to demonstrate that immediately after 14.01.2015 complaints were made. He would submit that burden was on the workmen to establish the fact that the resignations were outcome of coercion, force or influence. He would submit that the learned Labour Court has committed error of law while allowing the statement of claim and directing their reinstatement with 25% of back wages. He would pray to allow these petitions. Mr. Trivikram Nayak has placed reliance on the judgments of the Hon'ble Supreme Court in the matters of ***Shriram Manohar Bande Vs. Uktranti Mandal and Others, 2024 SCC OnLine SC 647*** and ***Anil Rishi Vs. Gurbaksh Singh, (2006) 5 SCC 558***. He has also placed reliance on the judgment passed by this Court in ***WPS No. 1625 of 2012 dated 06.11.2025*** parties being ***Mahendra Kumar Sahu Vs. South Eastern Coal Fields Ltd. and Others***

4. Mr. Sudeep Johri, learned counsel appearing for the respondents/workmen would oppose the submissions made by Mr. Trivikram Nayak. Mr. Johri would submit that management failed to examine any witness to substantiate the fact that the resignations were tendered by the workmen voluntarily. He would submit that the workmen had only remedy to make a complaint before the police



authorities or before the Assistant Labour Commissioner and those remedies were very well availed by them. He would contend that there was no reason or occasion for the workmen to tender their resignations as they were appointed in lieu of land acquisition. He would submit that Articles of Charge were issued against the workmen and thereafter replies were filed. He would contend that the workmen have specifically stated in the statement of claim that they were confined by Security Officer for a day and they were compelled and forced to tender their resignations. He would submit that the workmen have proved their case and therefore, the learned Labour Court allowed the statement of claim and passed award(s) of reinstatement with 25% of back wages. He would submit that burden was on the management to establish that there was no coercion or force upon the workmen to tender their resignations and the management utterly failed to prove this fact. It is also argued that these writ petitions under Article 226 of the Constitution of India are not maintainable. He would contend that the petitioner should have preferred these writ petitions under Article 227 of the Constitution of India as the order(s) under challenge have been passed by the learned Labour Court. He would contend that the High Court while exercising power under Article 226 of the Constitution should not re-appreciate evidence. He would submit that these writ petitions deserve to be dismissed. Mr. Johri has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of ***M/s Pepsico India Holding Pvt. Ltd. Vs. Krishna Kant Pandey, 2015 AIR SCW 634.***

5. I have heard learned counsel for the parties and perused the records of the learned Labour Court.



6. The learned Labour Court recorded a finding that the workmen herein were pressurized to tender their resignations. The workmen who were working with the petitioner were served with Articles of Charge on 01.12.2014. They tendered their resignations on 14.01.2015. Exhibited documents would show that the workmen made complaint to the police authorities on 20.05.2015 after 04 months. A conciliation proceeding was also initiated before the Assistant Labour Commissioner, but the workmen failed to demonstrate that they were pressurized to tender their resignations, and therefore, they were advised to approach Competent Court. The resignations submitted by the workmen were accepted on 14.01.2015 itself and the learned Labour Court has recorded a finding that 01 month prior notice or salary of 01 month was not paid to the workmen. The finding recorded by the learned Labour Court appears to be erroneous as it was not a case of retrenchment, rather resignations were tendered by the workmen, therefore, in the opinion of this Court, there was no need to serve with 01 month prior notice or to make payment of 01 month salary. The provisions of Sections 25 F, G and H of the ID Act would attract when a workman has been removed from service without holding enquiry or without issuance of show cause notice or in utter violation of provisions of Section 25 F of ID Act.
7. ***Shriram Manohar Bande (supra)*** was a matter where attempts were made by the workman to undo the voluntary decision to resign only post acceptance of his resignation letter. It was observed that resignation was voluntary tendered, and no stand of marital disputes and personal difficulties was not stated in the resignation letter. The relevant paragraph no. 20 is reproduced herein below:-



“20. It is to be noted that appellant was undergoing certain marital disputes and has admitted to this effect that owing to his difficulties in performing his duties, he tendered his resignation on 10.10.2017. Before the Tribunal, appellant tried to take a stand that he was pressurized into tendering his resignation, however, the Tribunal specifically observed that the appellant never took this stand in his resignation letter, and this plea was raised for the first time before the Education Officer vide letter dated 13.12.2017. Appellant did not take this plea in any of the earlier communications, and accordingly, Tribunal observed that resignation was voluntary, and the submissions of pressurization were vague. Appellant also stated that he had filed a leave application on 10.10.2017, the same date as his resignation letter, seeking leave from 01.11.2017 to 30.11.2017. However, the Tribunal had brushed aside said contention of the appellant on the ground that he never submitted any proof to show his bona fides of having communicated the leave application, and Tribunal held that Appellant had acted upon his resignation till his subsequent communication. These observations of the Tribunal would go to show the conduct of the appellant, and the attempts made by the appellant to undo the voluntary decision to resign only post acceptance of his resignation letter. Appellant himself has admitted that he sought withdrawal of his resignation letter on 03.11.2017 only upon realizing his mistake. Tribunal and the High Court have confirmed the fact that resignation was voluntary tendered by the appellant. The appellant has also strenuously submitted that the acceptance of the resignation was not communicated to him, and he submitted his letter seeking withdrawal of resignation before the communication of acceptance of the resignation. Hence, he contended that the termination was invalid.”

8. In the matter of **Anil Rishi (supra)**, the Hon'ble Supreme has dealt with the provisions of Sections 101, 102 and 106 of the Evidence Act. It is held that ordinarily, the burden of proof rests on party which substantially asserts the affirmative of the issue. The relevant paragraphs no. 9 and 10 are reproduced herein below:-



“9. In terms of the said provision, the burden of proving the fact rests on the party who substantially asserts the affirmative issues and not the party who denies it. The said rule may not be universal in its application and there may be an exception thereto. The learned trial court and the High Court proceeded on the basis that the defendant was in a dominating position and there had been a fiduciary relationship between the parties. The appellant in his written statement denied and disputed the said averments made in the plaint.

10. Pleadings is not evidence, far less proof. Issues are raised on the basis of the pleadings. The defendant-appellant having not admitted or acknowledged the fiduciary relationship between the parties, indisputably, the relationship between the parties itself would be an issue. The suit will fail if both the parties do not adduce any evidence, in view of Section 102 of the Evidence Act. Thus, ordinarily, the burden of proof would be on the party who asserts the affirmative of the issue and it rests, after evidence is gone into, upon the party against whom, at the time the question arises, judgment would be given, if no further evidence were to be adduced by either side.”

9. In the present case, the workmen filed statement of claim and sought relief of reinstatement with full back wages, inter alia, on the ground that resignations tendered by them were outcome of coercion or force, thus, the primary burden was on the workmen to establish this fact, which they failed to discharge.
10. Mr. Sudeep Johri, Advocate has taken a ground that the writ petitions filed under Article 226 of the Constitution of India are not maintainable as the petitioner has challenged orders passed by the learned Labour Court and therefore, writ petitions should have been filed under Article 227 of the Constitution of India. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of **Krishna Kant Pandey (supra)** wherein it is held that the High Court



could not in the guise of exercising its jurisdiction under Article 227 convert itself into a court of appeal when the legislature has not conferred a right of appeal. It is also held that the power of superintendence conferred by Article 227 is exercised most sparingly and only in appropriate cases. The relevant paragraph no. 13 is reproduced herein below:-

“13. While discussing the power of the High Court under Article 226 and 227 of the Constitution interfering with the facts recorded by the courts or the tribunal, this Court in the case of Chandavarkar S.R. Rao vs. Ashalata S. Guram, (supra) held as under:-

“17. In case of finding of facts, the court should not interfere in exercise of its jurisdiction under Article 227 of the Constitution. Reference may be made to the observations of this Court in Bathutmal Raichand Oswal v. Laxmibai R. Tarta where this Court observed that the High Court could not in the guise of exercising its jurisdiction under Article 227 convert itself into a court of appeal when the legislature has not conferred a right of appeal. The High Court [sic] was not competent to correct errors of facts by examining the evidence and reappreciating. Speaking for the Court, Bhagwati, J. as the learned Chief Justice then was, observed at p. 1301 of the report as follows: (SCC p. 864, para 7) “The special civil application preferred by the appellant was admittedly an application under Article 227 and it is, therefore, material only to consider the scope and ambit of the jurisdiction of the High Court under that article. Did the High Court have jurisdiction in an application under Article 227 to disturb the findings of fact reached by the District Court ? It is well settled by the decision of this Court in Waryam Singh v. Amarnath that the ... power of superintendence conferred by Article 227 is, as pointed out by Harries, C.J., in Dalmia Jain Airways v. Sukumar Mukherjee to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors.



This statement of law was quoted with approval in the subsequent decision of this Court in Nagendra Nath Bose v. Commr. of Hills Division and it was pointed out by Sinha, J., as he then was, speaking on behalf of the court in that case:

It is thus, clear that the powers of judicial interference under Article 227 of the Constitution with orders of judicial or quasi-judicial nature, are not greater than the power under Article 226 of the Constitution. Under Article 226 the power of interference may extend to quashing an impugned order on the ground of a mistake apparent on the face of the record. But under Article 227 of the Constitution, the power of interference is limited to seeing that the tribunal functions within the limits of its authority.”

11. In the matter of **Krishna Kant Pandey (supra)**, it is also held that “the powers of judicial interference under Article 227 of the Constitution with orders of judicial or quasi-judicial nature, they are not greater than the power under Article 226 of the Constitution. Under Article 226 the power of interference may extend to quashing an impugned order on the ground of a mistake apparent on the face of the record. But under Article 227 of the Constitution, the power of interference is limited to seeing that the tribunal functions within the limits of its authority.”
12. The workmen failed to substantiate that the learned Labour Court exceeded its jurisdiction in the decision making process, therefore, writ petitions filed by petitioner are held maintainable.
13. The Full Bench of High Court of Madhya Pradesh, Jabalpur in the matter of **Shailendra Kumar vs. Divisional Forest Officer and another** passed in **Writ Appeal No. 286/2017 dated 06.07.2017** while dealing with the similar issue held that a writ of certiorari is maintainable against any authority or body of persons constituted by law or having legal authority to adjudicate upon questions affecting the



rights of a subject and enjoined with a duty to act judicially or quasi-judicially is amenable to the certiorari jurisdiction of the High Court. The High Court of Madhya Pradesh has placed reliance on the judgment passed in the matter of ***Surya Dev Rai vs. Ram Chander Rai, (2003) 6 SCC 675*** wherein it is held that writ of certiorari can be issued for correcting error of jurisdiction; an error in decision or determination itself; where court has acted without jurisdiction or in excess of its jurisdiction. The High Court of Madhya Pradesh further held that an order of the Labour Court or an Industrial Tribunal is amenable to the writ of certiorari under Article 226 of the Constitution. The relevant paragraphs no. 15, 16, 17 and 18 are reproduced herein below:-

*“15. A writ of certiorari is maintainable against any authority or body of persons constituted by law or having legal authority to adjudicate upon questions affecting the rights of a subject and enjoined with a duty to act judicially or quasi-judicially is amenable to the certiorari jurisdiction of the High Court. The writ of certiorari as delineated in **Surya Dev Rai’s** case (supra) can be said to be exercised in the following instances:-*

- (1) Certiorari will be issued for correcting errors of jurisdiction;*
- (2) Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice;*
- (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous.*
- (4) An error in the decision or determination itself may also be amenable to a writ of certiorari if it is a manifest error apparent on*



the face of the proceedings, e.g., when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision.

(5) The certiorari may be and is generally granted when a court has acted (i) without jurisdiction, or (ii) in excess of its jurisdiction. The want of jurisdiction may arise from the nature of the subject-matter of the proceedings or from the absence of some preliminary proceedings or the court itself may not have been legally constituted or suffering from certain disability by reason of extraneous circumstances.

(6) Certiorari may also issue if the court or tribunal though competent has acted in flagrant disregard of the rules or procedure or in violation of the principles of natural justice where no particular procedure is prescribed.

(7) An error in the decision or determination itself may also be amenable to a writ of certiorari subject to the following factors being available if the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or disregard of the provisions of law but a mere wrong decision is not amenable to a writ of certiorari.

16. *Therefore, we find that an order of the Labour Court or an Industrial Tribunal is amenable to the writ of certiorari under Article 226 of the Constitution. In exercise of writ of certiorari, the High Court demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The Constitutional Bench judgment of the Hon'ble Supreme Court reported as **T.C. Basappa v. T. Nagappa, AIR 1954 SC 440**, held as under:-*

"7..... The second essential feature of a writ of certiorari is that the control which is exercised through it over judicial or quasi-judicial tribunals or bodies is not in an appellate but supervisory capacity. In granting a writ of certiorari the superior court does not exercise the powers of an appellate tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it consider to be without jurisdiction or



palpably erroneous but does not substitute its own views for those of the inferior tribunal. The offending order or proceeding so to say is put out of the way as one which should not be used to the detriment of any person [Vide Per Lord Cairns in Walshall's Overseers v. London and North Western Railway Co., (1879) 4 AC 30, 39.]”

17. *But issuance of the directions after setting aside an order passed in exercise of powers conferred under Article 226, is only under Article 227 of the Constitution. Therefore, the Court exercises composite jurisdiction which will make intra Court appeal maintainable. Thus the order passed by the Division Bench in **Superintendent, Rajmata Vijaya Raje Scindia Regional Agricultural Research Station, Ujjain's Case (Supra)** does not lay down correct principal of law and is thus overruled.*

18. *We may clarify that the orders passed by the Judicial Courts, subordinate to a High Court even in criminal matters when challenged in proceedings before the High Courts are only under Article 227 of the Constitution of India. Thus no intra court appeal would be maintainable against an order passed by the Learned Single Judge in proceedings arising out of an order passed by the Judicial Courts, may be civil or criminal proceedings.”*

14. Taking into consideration the above-discussed facts and the law laid down by the Hon'ble Supreme Court and High Court of Madhya Pradesh, I have no hesitation to hold that the learned Labour Court committed error of law while allowing the statement of claim filed by the workmen and accordingly, the writ petitions are **allowed** and the order(s) / award(s) passed by the learned Labour Court are hereby **set aside**. No order(s) as to cost(s).

Sd/-

(Rakesh Mohan Pandey)
Judge