



(2)

Division Bench (Civil)

1751

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

Misc. Petition No. 2089 of 1992.

Petitioner : Raghubir Singh Dilliwar,  
S/o Shri Mohan Singh Dhilliwar,  
aged about 44 years, Jeep Driver,  
Public Works Department, Division  
No.1, Durg, Distt. Durg (M.P.).  
Address: Near Deawar Derha,  
Phokatpara, Kasaridih, P.O. Kasaridih,  
Durg, Distt. Durg (M.P.).

Versus

Respondents : 1. The Presiding Officer,  
Labour Court, Durg, Distt. Durg (M.P.).  
2. The Executive Engineer,  
Public Works Department,  
Division No.1, Opposite: Govt.  
Main Hospital, G.E. Road,  
Durg, Distt. Durg (M.P.).

8930

Filed on 23/6  
by Shri M.B. Agrawal  
Advocate

R. b. D. R.  
23/6

PETITION UNDER ARTICLE 226 AND 227 OF  
THE CONSTITUTION OF INDIA.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.2089/92... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><b>30.06.2005</b></p> <p>Mr. H.B. Agrawal, Sr. Advocate with Ms. Sangeeta Mishra, learned counsel for the petitioner.</p> <p>Mr. Akhil Agrawal, learned Panel Lawyer for the State / respondent No.2.</p> <p>This writ petition is filed under Article 226/227 of the Constitution of India against the impugned award dated 01.10.1991 (Annexure-III) passed by the Labour Court, Durg in Case No.1/90/ID Act (Ref.). The undisputed facts in very narrow compass are that the petitioner was appointed on the post of Jeep Driver in Public Works Department, Division No.1, Durg, District Durg in the year 1982-83 on daily wages by respondent No.2. By order dated 30.12.1987 (Annexure-I) the services of the petitioner was regularized and he was granted pay scale of Rs.870-1420/- along with other admissible allowances on the post of Jeep Driver. By order dated 01.04.1988 the petitioner was removed from the service. The petitioner challenged the said removal by approaching the Deputy Labour Commissioner, Chhattisgarh Region, Durg under the provisions of Industrial Disputes Act. The Deputy Labour Commissioner while exercising his power under Section 10(1) of the Industrial Disputes Act, referred the dispute to the Labour Court, Durg for decision.</p> <p>The Labour Court by award dated 01.10.1991 after hearing both the parties came to the conclusion that removal of services of the petitioner from the post of Jeep Driver was illegal and improper and respondent No.2 was directed to reinstate the petitioner in the service.</p>	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक

W.P. NO. 2089/92

सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>Learned counsel for the petitioner has challenged non-grant of back wages despite the issue of reference was made by the Deputy Labour Commissioner and issue raised in the statement of claim. The issue referred to the Labour Court by the Deputy Labour Commissioner reads as under:</p> <p>"Whether removal of Shri Raghubir Singh from the services is legal and proper? If not, what relief he is entitled to and what direction can be issued to the employer?"</p> <p>In the statement of claims at para-9, the petitioner has raised the issue of payment of back wages is as under:</p> <p>"9. That in view of the facts stated hereinbefore, the action of the second party in discontinuing/ terminating the services of the first party w.e.f. 1.4.1988 is absolutely illegal, unjustified, invalid and inoperative. The first party therefore, deserves to be reinstated with back wages from 1.4.1988 till his reinstatement alongwith other benefits."</p> <p>After hearing both the parties and perusing the records, I have noticed that the Labour Court has not discussed the issue of back wages at all in its award and without considering the issue of back wages, the Labour Court has passed the impugned award. It is the case where the Labour Court has failed to consider the issue</p>	

4/10/92

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. No. 2089/92 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>of back wages raised in the claims as well as in the reference. Labour Court has passed the final order without passing any order on the issue of back wages. Learned counsel for the petitioner confines the challenge in the present petition only to the effect that the issue of back wages have not been considered and no order has been passed, by the Labour Court.</p> <p>In view of the facts as stated above, the matter is remitted back to the Labour Court for deciding the issue of back wages. Other part of the order with regard to re-instatement is upheld as there is no challenge by the respondent No.2 against the award in respect of re-instatement of the petitioner in service.</p> <p>With the aforesaid direction, the petition stands disposed of.</p>	

Sarma

Sd/-  
Satish K. Agnihotri  
Judge

SP/FS/2005 - 20,000