

SINGLE BENCH

COURT FEES EXEMPTED
BY NOTIFICATION NO. 9960-D-2870/XXI-
B/C.G./05/ AS SPECIFIED IN SCHEDULE
& OF THE COURT FEES ACT 1870

① ⑤

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P. (L) NO. 7333/2010

PETITIONER:

State of Chhattisgarh,
Through: Divisional Forest
Officer, Forest Division:
Khairagarh, District:
Rajnandgaon (C.G.)

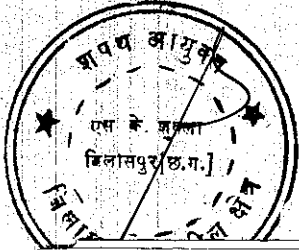
VERSUS

RESPONDENTS:

1. Vijay Kumar,
S/o - Shri Shanker
Ambade, Sanjay Nagar,
Dongargarh, District:
Rajnandgaon (C.G.)
2. The Labour Court,
Rajnandgaon (C.G.)

P.R. No. 8666/2010
Presented by Ashish Kumar
dated 8/12/2010

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA





HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION (L) NO.7333 OF 2010

(32)

PETITIONER

State of Chhattisgarh

Versus

RESPONDENTS

Vijay Kumar & Another

(Writ Petition under Articles 226/227 of the Constitution of India)

Single Bench : Hon'ble Shri Satish K. Agnihotri, J.

Present :-

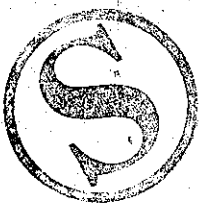
Shri Sushil Dubey, Govt. Advocate for the State/petitioner.

Shri Ajit Singh, Advocate for the respondent No.1.

ORDER (ORAL)

(Passed on this 31st day of March, 2011)

1. By this petition, the State/petitioner seeks to challenge the legality and validity of the order dated 28-6-2008 (Annexure – P/1) passed by the Labour Court, Rajnandgaon, in case No.26/ID/2007 (Ref.) (Vijay Kumar v. Divisional Forest Officer) by which the Labour Court directed the reinstatement of the respondent No.1/employee without back wages.
2. Learned Govt. Advocate appearing for the State/petitioner submits that the appointment of the respondent No.1/employee was not in accordance with law and was de hors the constitutional scheme of employment. After completion of the work, the respondent No.1 has been removed from the service. The Labour Court passed the impugned order in an illegal and arbitrary manner. Learned counsel further submits that in compliance of the order dated 28-6-2008 passed by the Labour Court, by order dated 31-10-2008 (Annexure – P/2) the respondent No.1 has been reinstated in service.
3. Per contra, Shri Singh, learned counsel appearing for the respondent No.1/employee, submits that the Labour Court after considering the facts and circumstances of the case in its letter and spirit passed the order dated 28-6-2008. Even the respondent No.1



has fully established the fact that he has rendered the service for more than 240 days in a calendar year. Shri Singh further submits that the impugned order was passed on 28-6-2008 and on the basis of the said order, the respondent No.1 was reinstated on 31-10-2008. Thereafter, the petition was filed on 10-12-2010 i.e. after a delay of more than two years without explaining the delay and laches properly. Thus, this petition deserves to be dismissed on the ground of delay and laches alone. (53)

4. Having heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto, it is evident that while passing the order dated 28-6-2008 the Labour Court observed that the respondent No.1 has worked for more than 240 days and while removing the respondent No.1 the petitioner/State has not followed the provisions prescribed under Section 25F of the Industrial Disputes Act, 1947.
5. The petitioner has not approached this Court immediately against the order dated 28-6-2008, but after compliance of the same. The instant petition has been filed by the petitioner after a period of more than two years without explaining the inordinate delay in approaching this Court. In the facts of the case, wherein grant of relief of reinstatement was acted upon and the petitioner did not feel proper to question the same and thereafter, it appears to be an after-thought to challenge the same. Thus, in the facts of the case, it is not proper to interfere with the impugned order dated 28-6-2008 at this stage.
6. As an up shot, the writ petition is liable to be and is hereby dismissed. No order as to costs.

Gowri

Sd/-
Satish K. Agnihotri
Judge