

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 4314 of 2010**

Kanhaiyalal Sahu, S/o Shri Ramcharan Sahu, age about 38 years,
Through- Chintamani Bongare, 54/1234 Shanti Vihar Colony, Danganiya,
Raipur (C.G.)

----Petitioner

Versus

Employer Chandan Soap Works Naharpara, Behind Goshala, Raipur
(C.G.)

---- Respondent

Writ Petition (L) No. 4315 of 2010

Arjun Sahu, S/o Shri Bodhan Sahu, aged about 40 years, Village –
Gagaon, Thana – Khamatrai, Teh. & Distt.- Raipur (C.G.)

----Petitioner

Versus

Employer Chandan Soap Works Naharpara, Behind Goshala, Raipur
(C.G.)

---- Respondent

For Petitioners	: Mr. K.P. S. Gandhi, Advocate.
For Respondent	: None appeared on behalf of respondent, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

31/07/2018

1. Since common question of law and fact is involved in both the writ petitions, they are heard together and are being decided by this common order.
2. Learned counsel appearing for the petitioners would submit that though the Labour Court has granted reinstatement to the petitioners but no backwages has been granted to them whereas petitioners have clearly stated in their statement of claim as

well as in the statement recorded before the Labour Court that they are unemployed from the date of termination till the date of examination before the court, as such, backwages ought to have been granted to them.

3. None appeared on behalf of the respondent, though served.

4. The petitioners have clearly stated in their statement of claim as well as statement before the Labour Court that they are unemployed from the date of termination till the date of examination before the court but the Labour Court has not considered that aspect of the matter and denied the backwages to the petitioners.

5. The question for consideration in these writ petitions is of back-wages. The normal rule is a workman whose service has been illegally terminated would be entitled to full back-wages except to the extent during the enforced idleness. (See **M/s. Hindustan Tin Works Pvt. Ltd. v. The Employees of M/s. Hindustan Tin Works Pvt. Ltd. and others**¹.)

6. In the matter of **M/s. Reetu Marbles v. Prabhakant Shukla**², Their Lordships of the Supreme Court have emphasized the need for enquiry/material with regard to gainful employment before directing full back-wages particularly when the order is being modified and Their Lordships awarded only 50% of back-wages from the date of termination of service till reinstatement. Following the law laid down in this regard and considering the facts and circumstances of the case, I deem it appropriate to award only 50% back-wages to the petitioner from the date of termination till he is reinstated in service.

7. Therefore, in the light of the aforesaid decisions of the Supreme Court, the each of petitioners is entitled for 50% back-wages from the date of termination till they are reinstated in services.

¹ (1979) 2 SCC 80

² (2010) 2 SCC 70

8. For the foregoing reasons, the part of the order refusing backwages is set aside and the writ petitions are allowed to the extent outlined hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-