



CGHC010072512023



2026:CGHC:41433

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 41 of 2023

1 - Nagar Panchayat Lormi Through Chief Municipal Officer, Nagar Panchayat Lormi District Mungeli (C.G.)

... Petitioner(s)

versus

1 - Paritosh Sahu S/o Ramji Sahu, Ward No. 1, Kutupara, Lormi, District Mungeli (C.G.)

---- Respondents

For Petitioner : Dr. Sudeep Agrawal, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

23.09.2026

1. Heard.
2. The petitioner has challenged the judgment and award passed by the learned Labour Court, Bilaspur, District Bilaspur (C.G.) in Case No. 10/I.D.Act/Reference/2017 dated 19.09.2022, whereby, learned Labour Court has partly allowed the statement of claim directing reinstatement along with 25% back wages with interest @ 6% per annum.
3. The facts in brief are that on application moved by the petitioner before the Assistant Labour Commissioner, the matter was-2-

referred by the competent Government to the concerned Labour Court under Section 10 of the Industrial Disputes Act, 1947 (for Short 'the Act of 1947'). The statement of claim was filed by the workman on the ground that he was engaged by the respondent as 'Pump Operator' in the year 2005 and he worked there till month of July, 2016 and thereafter, his services were discontinued in violation of the provisions of Section 25-F and 25-G of the Act of 1947. He further pleaded that he worked for 240 days in a calendar year preceding the date of his termination. The employer/petitioner herein filed reply and took plea that though the petitioner was working with the Nagar Panchayat Lormi but he was deployed by a placement agency. It is also contended that no order of appointment was issued and the workman did not work for 240 days in a calendar year. Learned Labour Court framed issues; parties led evidence and thereafter, award was passed.

4. Dr. Sudeep Agrawal, learned counsel appearing for the petitioner would argue that the workman failed to submit documents before the learned Labour Court to establish that he worked for 240 days in a calendar year. It is further contended that he was deployed by a placement agency, therefore, the workman has no right to claim reinstatement with back wages.
5. I have heard the learned counsel appearing for the petitioner and perused the documents placed on record.
6. In evidence, Smt. Sabina Tandon, Chief Municipal Officer, Nagar Panchayat Lormi admitted that the workman was engaged on the post of Pump Operator on daily wages. It is further stated

that the workman was engaged through a placement agency but in this regard, no document has been placed on record. The workman exhibited application moved before the learned Labour Commissioner dated 10.01.2017 as Ex.P/1 and application moved under Right to Information Act to provide attendance register, muster-roll, pay slip etc. dated 10.07.2017 vide Ex.P/3.

7. It is apparent that an application under Right to Information Act was moved by the workman to provide relevant documents but those documents were not provided, therefore, the learned Labour Court should have drawn inference against the employer as per law laid down by the Hon'ble Supreme Court in the matter of **Director, Fisheries Terminal Department Vs. Bhikubhai Meghajibhai Chavda, reported in 2010 (1) SCC 47**, wherein the Hon'ble Supreme Court held in paras 15 & 16 as under :-

"15. The respondent claims that he was employed in the year 1985 as a watchman and his services were retrenched in the year 1991 and during the period between 1985 to 1991, he had worked for a period of more than 240 days. The burden of proof is on the respondent to show that he had worked for 240 days in preceding twelve months prior to his alleged retrenchment. The law on this issue appears to be now well settled.

16. This court in the case of **R.M. Yellatty vs. Assistant Executive Engineer [(2006) 1 SCC 106]**, has observed :"

17.....However, applying general principles and on reading the aforesaid judgments, we find that this Court, has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping up in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily-waged earners, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (the claimant) can only call upon the employer to produce

before the Court the nominal muster roll for the given period, the letter of appointment of termination, if any, the wage register, the attendance register, etc. Drawing of adverse inference ultimately would depend thereafter on the facts of each case."

9. The employer failed to place on record relevant documents to substantiate that the workman was never engaged or was engaged through a placement agency and also there is admission on the part of the Chief Municipal Officer Lormi that the workman was engaged. Accordingly, this petition fails and is hereby dismissed.

Sd/-
(Narendra Kumar Vyas)
Judge

kishore