

(2019) 02 CHH CK 0079

Chhattisgarh High Court

Case No: Writ Appeal No. 3 Of 2018

Raj Bahadur Singh

APPELLANT

Vs

Cement Corporation Of India

Limited Akلتara Cement Factory

RESPONDENT

And Ors

Date of Decision: Feb. 7, 2019

Hon'ble Judges: Ajay Kumar Tripathi, CJ; Parth Prateem Sahu, J

Bench: Division Bench

Advocate: T.K. Tiwari, Vinod Deshmukh

Final Decision: Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. Appellant was dismissed from service by respondent No.1- Cement Corporation of India on 20.1.1993. The order of punishment was passed on the basis of certain charges of omissions and commissions.

2. An appeal against the said order was also dismissed which was sought to be assailed in a writ application. The writ Court did not entertain the writ application but permitted the employee to move a Labour Court. He approached the Labour Court on 29.11.1994 assailing his order of termination.

3. For the reasons assigned by the Labour Court, the order of termination was set aside with full back-wages.

4. The order of Labour Court was assailed before the Industrial Court. The Industrial Court did not interfere with the order of the Labour Court in relation to reinstatement, however, the order of full back-wages was modified to payment of 50% of back-wages.

5. Appellant, therefore, decided to assail that decision before the learned Single Judge in a writ application which was heard and disposed off on

12.10.2017 without interfering with the order of the Industrial Court for the following reasons:-

3. The Industrial Court has limited the back-wages to the extent of 50% finding that there is no evidence on record to hold that the petitioner was not gainfully employed during the termination as no enquiry in this regard was made by the Labour Court. I do not find any jurisdictional error in the impugned order warranting interference by this Court.

6. We have heard learned counsel for the parties and also examined the order of the Industrial Court.

7. Finding which has been taken note off by the learned Single Judge in Para-3 quoted above is reflected from the order of the Industrial Court. Not only this, we also find that respondent No.1 became a sick industry and has finally closed down on 31.10.2008. This was also one of the reasons why the Industrial Court did not decide to allow 100% back- wages keeping in mind the financial status of the company.

8. It is not that no reasons were assigned by the Industrial Court for reducing the payment of back-wages to 50% and that those reasons are not cogent and valid reasons. They seem to be infact based on the principles and ratio laid down by certain decisions of the Supreme Court which have been taken note off in the order of the Industrial Court.

9. In the above background, we do not feel that the learned Single Judge has committed any error which requires rectification in appeal.

10. Accordingly, the appeal has no substance, the same is liable to be dismissed and is hereby dismissed.