

(2008) 04 CHH CK 0024
In the Chhattisgarh High Court
Case No : Writ Petition (L) No. 1924 of 2008

State of Chhattisgarh and Another

APPELLANT

Vs

Dharamlal

RESPONDENT

Date of Decision : 01-04-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 25F

Citation : (2008) 3 MPJR 48

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : U.N.S. Deo, Govt, for the Appellant;

Judgement

Satish K. Agnihotri, J.—This petition filed under Article 226 /227 of the Constitution of India impugns the validity of the order dated 13th November, 2006 passed by the State Industrial Court, Chhattisgarh in Civil Appeal No. 40/C.G.I.R. Act/A-11/2006 (Annexure P/1) and order dated 12.04.2006 passed by the Labour Court, Raipur (Annexure P/3). The main issue involved in this case was as to whether the Respondent was entitled to benefits of provisions of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the "Act, 1947"). The Labour Court, after having examined the case of the Respondent herein, held that the Respondent had worked for more than 240 days in the proceeding year thus, the Respondent could not have been retrenched/removed without following provisions of Section 25F of the Act, 1947. The Petitioner herein i.e. the State contested the case on the ground that the Petitioner was a temporary employee, but did not rebut the factual position that the Respondent had worked for more than 240 days in the proceeding year. Accepting the factual position, the Labour Court by order dated 12.04.2006 held that the Respondent was not retrenched/removed in accordance with Section 25F of the Act, 1947, and directed reinstatement without back wages. The Petitioner-State preferred an appeal before the State Industrial Court and vide order dated 13.11.2006 (Annexure P/1) the learned Industrial Court confirmed the findings

recorded by the Labour Court and held that admittedly, the provisions of Section 25F of the Act, 1947 was not followed before discontinuation of service of the Respondent. Further, it is not a case of regularisation.

2. Having heard learned Counsel for the Petitioner and gone through the pleadings and documents appended thereto, it is evident that the respondent was found to have completed mandatory 240 days service to attract applicability of provisions of section 25F of the Act, 1947. He was retrenched/removed from the service. It is also admitted that the provisions of section 25F of the Act, 1947 was not complied with.

3. Learned counsel disputes the working of the respondent for 240 days but he has not contested the same before the Courts below. With regard to non-compliance of the provisions of section 25F, there is no dispute. In view of the above, there is no merit in this case. Accordingly, the petition is dismissed summarily.

No order as to costs.