

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.114 OF 2024

SUNIL CHAUHAN

... PETITIONER

Versus

STATE OF GOA THR THE
SECRETARY (LABOUR)
AND 3 ORS.

... RESPONDENTS

Petitioner in person.

**CORAM: M. S. SONAK &
VALMIKI SA MENEZES, JJ.**

DATE: 31st JANUARY 2024

P.C. :

1. Heard Mr Sunil Chauhan, who appears in person. By this petition, he seeks the following reliefs:

"a. To issue a writ of mandamus, or in the nature of mandamus or any other appropriate writ, order or directions, calling for the records and proceedings of labour court -II CASE NO. LC-II/IT/14/2017 (matter of illegality and service condition) AND LC-II/MISC/02/2023 IN REF. OF CASE NO.LC-II/IT/14/2017 (for appearance in matter of correction of error in award dated 10.08.2021) AND LC-II/MISC/03/2023 IN REF. OF CASE NO. LC-II/IT/14/2017(for appearance in matter of subsistence allowance) being conducted by the Hon'ble Presiding Officer, Labour Court. -II Respondent No.2 At Panaji -

Goa, and after perusing the same, for appropriate direction to Respondent No. 2 for the relief and clearance of payment of pending subsistence allowance from the employer and the opportunity for the recovery of losses and damages caused by the employer through the court proceedings in accordance with law, on merits and with regards to the principles of natural justice.

b. To issue a writ of mandamus, or in the nature of mandamus or any other appropriate writ, order or directions, to the government of Goa and to the Hon'ble Presiding Officer, Shree Suresh N Narulkar, labour court-II Respondent No. 2 for initiating the strict action against employer respondent No.4 for illegality and for manipulating CASE NO. LC-II / IT / 14/ 2017 (matter of illegality and service condition) AND LC-II/MISC/02/2023 IN REF. OF CASE NO.LC-II/IT/14/2017 (for appearance in matter of correction of error in award dated 10.08.2021) AND LCI1/MISC/O3/2023 IN REF. OF CASE NO. LC-II/IT/14/2017(for appearance in matter of subsistence allowance) being conducted by the Hon'ble Presiding Officer, Labour Court -II Respondent No.2 At Panaji – Goa.”

2. Mr Sunil Chauhan admits that the Labour Court by award dated 10.08.2021 has held against him. However, he points out that he has filed an application for correction of the error that has crept into this award. He submits that had he led full evidence before the Labour Court the award would have been in his favour. Still, the Labour Court has erroneously made this award.

3. To the Court's query as to why he is not challenging that award by instituting proceedings under Article 227 of the Constitution, Mr

Chauhan states that until and unless he gets subsistence allowance, he will not challenge the award.

4. Mr Sunil Chauhan is informed that he could consider applying to the Legal Services Authority for an Advocate. However, he maintains that until and unless he gets a subsistence allowance from the Management he will not engage any Advocate.

5. Since the Labour Court's award has held that the petitioner is not a workman and has dismissed the reference, we are afraid that in this petition we will not be in a position to issue any writ of mandamus to the fourth respondent, which is a private entity to pay any subsistence allowance to the petitioner. This is assuming that any case is made out for payment of any subsistence allowance.

6. Accordingly, we dismiss this petition but once again leave it open to the petitioner, to take out appropriate proceedings before the appropriate forum *inter alia* for questioning the award dated 10.08.2021 or for claiming any other reliefs that he may be entitled to under the law.

7. The petition is disposed of with liberty in the above terms. We clarify that we have not gone into any contentious issues and therefore all contentions of all parties are left open.

VALMIKI SA MENEZES, J.

M. S. SONAK, J.

NITI K

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