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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No.2211 of 2009**

State of Chhattisgarh through Divisional Forest Officer, Forest Division
Kawardha, District Kabirdham, Chhattisgarh

---- Petitioner**versus**

1. Dilip Kumar Bhatt, son of Maheshwar Prasad Bhatt, R/o Village Post and Tahsil Pandaria, District Kawardha (Kabirdham), Chhattisgarh
2. The Labour Court, Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner/State	:	Shri B. Gopa Kumar, Deputy Advocate General,
For Respondent No.1	:	Shri Santosh Bharat, Advocate

Hon'ble Shri Navin Sinha, Chief Justice**Order on Board****16/10/2015**

1. Heard Learned Counsel for the State and Respondent No.1.
2. The writ application assails order of the Labour Court dated 7.5.2008 in Case No.20/ID/2007(Ref.), directing reinstatement of Respondent No.1 pursuant to a reference under Section 10 of the Industrial Disputes Act (hereinafter referred to as 'the Act') for retrenchment contrary to the provisions of Section 25F of the Act.
3. Learned Counsel for the State submits that the reference made seven years later was belated and stale. The Respondent was a daily wager and was removed because his services were no longer required.
4. Learned Counsel for Respondent No.1 submits that the writ application may not be entertained as the Appellant has rushed to the writ Court directly without availing the alternate appellate remedy before the Industrial Court. There is a clear finding of Section 25F of the Act not having been complied before retrenchment. The jurisdiction of the writ Court is confined to examining the correctness of the decision making process. If violation of Section 25F of the Act is not in dispute, the writ Court may not interfere. Delay is irrelevant.
5. Having considered the submissions on behalf of the parties, the fact

that the writ application has been filed without availing the alternative appellate remedy before the Industrial Court, the finding that Respondent No.1 had worked for more than 240 days and an invalid retrenchment, the Court is not persuaded to entertain the writ application merely on the ground that the reference has been made seven years later. Reference may appropriately be made to (2015) 6 SCC 321 (Ajaypal Singh v. Haryana Warehousing Corpn.) observing as follows:

19. Section 25-F of the Industrial Disputes Act, 1947 stipulates conditions precedent to retrenchment of workmen. A workman employed in any industry who has been in continuous service for not less than one year under an employer is entitled to benefit under the said provision if the employer retrenches the workman. Such a workman cannot be retrenched until he/she is given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice apart from compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months. It also mandates the employer to serve a notice in the prescribed manner on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette. If any part of the provisions of Section 25-F is violated and the employer thereby, resorts to unfair trade practice with the object to deprive the workman with the privilege as provided under the Act, the employer cannot justify such an action by taking a plea that initial appointment of the employee was in violation of Articles 14 and 16 of the Constitution of India.

20. Section 25-H of the Industrial Disputes Act relates to re-employment of retrenchment workmen. Retrenched workmen shall be given preference over other persons if the employee proposes to employ any person.

6. The writ application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE