

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 146 of 2003****Order reserved on 10.10.2017****Order delivered on 27.10.2017**

K.V. Satyanarayana S/o. K. Krishna Rao, aged about 36 years,
R/o. Jhopdi, Infront of Block No.- 43, K.L.C., Sector-11, Bhilai,
District Durg.

---Petitioner**Versus**

1. Asstt. General Manager, Industrial Relation Department,
Bhilai Steel Plant, Bhilai.
2. Manager, Blooming & Billet Mill, Co-operative Canteen, Bhilai
Steel Plant, Bhilai.
3. Presiding Officer, Labour Court, Durg (Chhattisgarh).

---Respondents

For petitioner : Mr. P. K. Moitra, Advocate.

For respondents : Dr. N. K. Shukla, Senior Advocate with Mr.
Ram Milan Dey, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order [C.A.V.]**

1. Appropriate Government referred the matter to the Labour Court to decide as to whether termination of the petitioner from service is legal and proper. The Labour Court passed an ex parte award on 17.12.1996 directing reinstatement of the petitioner. Respondent No.2 challenged the ex parte award by filing an application for setting aside the ex parte award.
2. The Labour Court set aside the ex parte award and restored the reference for adjudication on merits.

3. Upon restoration, respondent No.2 filed a preliminary objection that respondent No.2 is a Co-operative Society registered under the Chhattisgarh Co-operative Societies Act, 1960 and therefore service dispute is maintainable under Section 64 of the Act of 1960 and Labour Court has no jurisdiction under Section 10 of the Industrial Disputes Act, 1947 to adjudicate the service dispute in light of the decision of the Madhya Pradesh High Court in the matter of **C.O.D. Employees Co-operative Society, Jabalpur v. Presiding Officer, Labour Court, Jabalpur and others**¹.

4. The petitioner filed his reply to the preliminary objection stating *inter alia* that the petitioner was working in Blooming & Billet Mill Canteen, and Blooming and Billet Mill is a registered Factory under the Factories Act, 1948 and Canteen of Blooming & Billet Mill is a statutory canteen and relied upon Division Bench of the Madhya Pradesh High Court in the matter of **Steel Authority of India v. I. Ramanayya**² in which it has held that the employees of statutory canteen are the employees of Bhilai Steel Plant, therefore, the preliminary objection deserves to be rejected.

5. The Labour Court by its impugned order has held that the Labour Court has no jurisdiction to hear the matter in light of above-stated decision rendered by the Madhya Pradesh High Court and in view of the fact that the petitioner was working in the Co-operative

1 1999(1)M.P.L.J. 352

2 L.P.A. No.208/1995 decided on 15.05.1996

Society and jurisdiction of the Labour Court under Section 10 of the ID Act is barred and accordingly answered the reference.

6. Feeling aggrieved against the order dated 25.09.2001 this writ petition has been filed.

7. Mr. P.K. Moitra, learned counsel for the petitioner, would submit that the impugned order is unsustainable and bad in law, as the petitioner was working in Blooming & Billet Mill which is registered under the Factories Act. The decision of the Madhya Pradesh High Court rendered in **Steel Authority of India v. I. Ramanayya** (supra) decided on 15.04.1996 is binding upon respondent No.2 therefore, the impugned order is liable to be set aside.

8. Dr. N. K. Shukla, learned Senior Counsel appearing for the respondents, would support the impugned order.

9. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

10. In reply to the preliminary objection raised by the respondents, the petitioner clearly stated as under:-

“2. That the contents of para-2 of the preliminary objection is out of context, mis-leading and illegally stated, therefore denied. It is specifically submitted that First Party Employee was working in Blooming & Billet Mill Canteen and Blooming & Billet Mill is a registered Factory under the Factories Act & the Canteen of Blooming & Billet Mill is a statutory canteen. That the Division Bench of Hon'ble

Court of High Court of M.P. in the case of Managing Director of Bhilai Steel Plant *Versus* I. Ramanayya & others, held the Employees of the Statutory Canteen are the Employees of Bhilai Steel Plant. Therefore the First Party is the Employee of Bhilai Steel Plant and his case is the against the Bhilai Steel Plant.”

11. In ‘L.P.A. No. 208/1995 – Steel Authority of India v. I Ramanayya’ the Division Bench of the Madhya Pradesh High Court has clearly held that workers employed in that Canteen are the employees of Management (Bhilai Steel Plant) and held as under:-

“19. From the above decisions, it is clear that the provisions of the Factories Act, it is the statutory obligation on the employer to provide and maintain canteen for the use of his employees, the canteen becomes the part of the establishment and therefore, the workers employed in the canteen are the employees of the management. The workers employed in the canteen run by the appellant Factory for which the factories are under a legal obligation are, thus, the employees of the management and not of the co-operative societies which are managing the canteens in these factories. As observed earlier, providing for fixation of price, under Rule 80 of the M.P. Rules for food and other items served in these canteens, does not create transfer of the obligation to a co-operative society but only permits management by such society and allows profit up to 5% on its working capital employed in the running of the canteens subject to the fulfilment of the conditions enumerated in clause (a) to (d) of Rule 80. Rule 77 of the M.P. Rules also clearly attaches the obligation on the occupier and does not make it transferable in any case. In these circumstances, the order passed by the learned Single Judge to the effect that the workers of the statutory canteens have the status of the workers of the BSP and are entitled to the benefits which are available to the workmen of the BSP, does not call for any interference.”

12. The aforesaid judgment was challenged by the Steel Authority of India in SLP(C) No. 10687/1996 and it was dismissed on 08.05.1996 and thereafter, SLP(C) No. 12423/1996 filed by

President, Blooming & Billet Mill before the Supreme Court was also dismissed. Thus, it is clear on record that the petitioner was working in Blooming & Billet Mill Co-operative Canteen which is a registered society under the Factories Act and Canteen of Blooming & Billet Mill is a statutory canteen as held by the Division Bench of the Madhya Pradesh High Court which is between the Steel Authority of India and I. Ramanayya, and which is binding on respondent No.2. Thus, the order passed by the Labour Court holding that the Labour Court has no jurisdiction to entertain the present reference is in teeth of decision rendered by the Madhya Pradesh High Court in *I. Ramanayya* (supra), as against which SLP filed by the President, Blooming & Billet Mill Co-operative Canteen has already been dismissed therefore, the impugned order is set aside and the matter is remitted to the Labour Court for hearing and disposal in accordance with law on its own merit, expeditiously, preferably within a period of four months from the date of receipt of a copy of this order.

13. The writ petition is allowed to the extent indicated herein-above.

No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge