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HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. No. 486 of 2004**

Vimal Kumar Thawait, S/o Late Shri Dhani Ram Thawait, aged about 48 years, Purani Basti, Rani Road, Korba, Tah. & Distt. Korba (C.G.)

---- Petitioner**Versus**

1. Presiding Officer, Industrial Court (Under M.P. Industrial Relation Act), Raipur (C.G.)
2. Presiding Officer, Labour Court (Under M.P. Industrial Relation Act), Bilaspur (C.G.)
3. Assistant Personal Officer, Through, its Director of Starlights, Bharat Aluminium Company Limited, Balco Nagar, Distt. Korba (C.G.)
4. Deputy General Manager.(Yan/Anu/Sanrachna), through its Director of Starlights, Bharat Aluminium Company Limited, Balco Nagar, Distt. Korba (C.G.)

---- Respondents

For Petitioners : Mr. M.K. Baig, Advocate.
 For Respondents 1 & 2/State: Mr. Aditya Sharma, PL
 For Respondents No. 3 & 4 : Mr. N.K. Vyas, Asstt. Solicitor
 General

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****03/05/2017**

(1) The petitioner was working on the post of Trainee Workman in Bharat Aluminium Company Limited. His services were terminated by the respondents authority by order dated 29.06.1994. He raised a dispute under Section 31(3) of the M.P. Industrial Relations Act, 1960 (henceforth 'Act, 1960') by filing application on 30.12.1998. That was rejected by the Labour Court, Bilaspur holding it to be barred by

limitation under Section 62 (i)(a) of the Act, 1960.

(2) The petitioner preferred appeal before the Industrial Court, Raipur there-against. The Industrial Court dismissed the petitioner's appeal by affirming the order of the Labour Court, against which instant writ petition under Article 226/227 of the Constitution of India has been filed questioning the same.

(3) Shri M.K. Baig, learned counsel appearing for the petitioner would submit that order passed by Labour Court as affirmed by the Industrial Court are perverse and contrary to record, which are liable to be set aside.

(4) Per contra, counsel for the respondents supported the order impugned order and submit that the courts below after appreciating the facts and legal position, passed the impugned order, which is not liable to be interfered with by this Court in the instant writ petition.

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

(6) The question for consideration in this petition is whether the application filed by the petitioner was barred by Section 62(i)(a) of the Act, 1960 ?

(7) Section 62(i)(a) of the Act, 1960 states as under:-

“62. Commencement of Proceedings.- Proceedings before a Labour Court shall be commenced-

(i) in respect of a dispute falling under clause (a) of paragraph (A) of sub-section (1) of Section 61 within two years

from the date of the dispute:

Provided that-

(a) if the dispute is connected with the termination of the services of an employee, such proceedings shall commence within a year from the date of termination of the services of the concerned employee;"

(8) A careful reading of the above-stated provision would show that if the dispute is connected with the termination of the services of an employee, such proceedings has to be commenced within a year from the date of termination of the services of the concerned employee.

(9) The question of limitation was considered by the Supreme Court in the matter of **Raja Ram Maize Products Vs. Industrial Court of M.P.**¹, in which it has been held as under:-

"9.Now we have to see as to whether the case put forth before the courts falls under which (sic any) of the clauses provided under Section 62 of the Act. The largest period of limitation prescribed therein is two years and in cases of termination of services and other incidental matters lesser period of limitation has been prescribed. Therefore, even taking that two years period from the date of the dispute either taking the date on which they were refused work when they made a demand that they should be allowed to do made by the Laobur Court on an interim application directing them to resume work or calling off the strike, the applications filed are beyond the period of limitation prescribed under Section 62 of the Act."

(10) Applying the ratio of law laid down by the Supreme Court in the matter of **Raja Ram Maize Products** (supra) and the provisions of Section 62 of the Act, 1960, to the facts & circumstances of the case, it

1 2001 (4) SCC 492

is apparent that petitioner's services were terminated on 29.06.1994 whereas he filed an application under 31(3) of the Act, 1960 on 30.12.1998 for his reinstatement in service, which is beyond the period of one year from the date of termination of his services as such, it was rightly held to be barred by limitation and, thus, petitioner's application under Section 31(3) of the Act, 1960 is hit by Section 62 of the M.P. Industrial Relations Act, 1960. Accordingly, both the courts below were absolutely justified in dismissing the petitioner's application filed under Section 31(3) of the Act, 1960 as barred by limitation.

(11) For the reasons mentioned hereinabove, the petition being devoid of merit is liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-