

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No.5274 of 2006**

Cement Corporation of India Limited through its General Manager Akaltara Cement Factory, Distt.Janjgir-Champa (CG)

----Petitioner

Versus

1. Cement Workers Union through its General Secretary Miss Manju Banarjee, Mazdoor Sabha Bhavan, Nandini Road, Bhilai (CG)
2. Industrial Court, State of Chhattisgarh Gadi Chowk, Raipur (CG)

---- Respondents

For Petitioner	:	Mr.Vinod Deshmukh, Advocate
For Respondent No.1	:	Mr.P.K.Maitra, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****27/7/2017**

1. Respondent No.1-Cement Workers Union filed an application before the Labour Court for implementation of the Industrial Court's award passed on 30.8.1993. The said application was dismissed by the Labour Court by order dated 4.2.2006 on the ground of barred by limitation and having been filed by unauthorized person, against which, respondent No.1-Union preferred an appeal before the Industrial Court. The Industrial Court by order dated 14.8.2006 (Annexure P/8) allowed that appeal and directed implementation of the award dated

30.8.1993 to the petitioner-Cement Corporation, against which this writ petition has been filed.

2. Mr.Vinod Deshmukh, learned counsel appearing for the petitioner, would submit that the Industrial Court has committed jurisdictional error in holding that application for execution of the award was within limitation and application was filed by authorized person, therefore, the impugned order deserves to be set aside. He would further submit that award has already been complied with.
3. On the other hand, Mr.P.K. Maitra, learned counsel appearing for respondent No.1, would support the impugned order.
4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. Admittedly, the application was filed by respondent No.1 for implementation of the award dated 30.8.1993 passed by the Industrial Court. According to Section 34 (d) of the Chhattisgarh Industrial Relations Act, 1960 (hereinafter called as 'Act of 1960'), an illegal change means failure to carry out the terms of a registered agreement or settlement, or an order, decision or award under this Act.
6. Section 61 (1) (B) (a) of the Act of 1961 reads as under:-

“61 (1) (B) require any employer-

(a) to withdraw any change or lock-out which is held by it to be illegal.”

Thus, a bare perusal of Section 34 (d) read with Section 61 (1) (B) (a) of the Act of 1960 would show that the present matter is covered by above-stated provision and for which no limitation is prescribed under the Act of 1960 and as such, the Industrial Court is justified in holding and reversing the order of the Labour Court. The Industrial Court has further held that non-compliance of the award is continuous act and also held that it has been filed by authorized person. Clear-cut and specific finding has been recorded by the Industrial Court for holding so. The Industrial Court has not committed any jurisdictional error in the impugned order. No such plea has been taken by the petitioner before the Industrial Court that award has already been complied with.

7. Accordingly, the writ petition deserves to be and is hereby dismissed. However, the petitioner is at liberty to raise all these pleas when the award is put to execution and the petitioner's objections will be considered by the Executing Court. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-