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HIGH COURT of CHHATTISGARH, BILASPUR

Writ Petition No. 562 of 2006

D. Venkatesh S/o D. Chennaiah, Ex-Senior Bus Driver, P. No. 78216,
Rajhara Mines of Bhilai Steel Plant, R/o behind Block No.4, II-B-type
South Avenue Dallirajhara, District Durg (CG)

---- Petitioner

Versus

1. Union of India through Secretary, Ministry of Labour & Employment,
Government of India, New Delhi
2. Steel Authority of India Limited through Managing Director Bhilai Steel
Plant, Steel Authority of India Limited, Ispat Bhawan, Bhilai Nagar,
Tah. & District Durg, (CG)
3. Mr. B. M. David under Secretary to the Government of India, Ministry
of Labour and employment, New Delhi.

---- Respondents

For Petitioner	:	Shri V. G. Tamaskar, Advocate
For Union of India	:	Shri N. K. Vyas, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

07/04/2017

This is the second round of litigation. The earlier round of litigation was initiated by the petitioner in the year 2003 where the petition was registered as W.P. No.2687/2003. The said writ petition was filed on the ground that the conciliation proceedings had failed and the appropriate Govt. was not making a reference to the Industrial Tribunal. After disposal of the said writ petition on 09.09.2005, the matter was placed before the Under Secretary, Govt. of India, Ministry of Labour and Employment. The Under Secretary vide order dated 22.11.2005 Annexure P-2 had refused to refer the matter to the Industrial Tribunal on the ground that the petitioner has not raised the dispute within a



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reasonable period and since the dispute was raised belatedly, the appropriate Govt. refused to make an reference.

2. The issue involved in the present case is no longer res integra for the reason that it is a settled position of law that the Under Secretary cannot adjudicate a matter deciding whether the claim put forth by a worker would be hit by delay laches or not. Industrial Dispute Act does not prescribe any period for raising a claim. If a belated claim is raised by the worker, the matter would have to be referred to the suitable Tribunal which in turn can consider the effect of the delay.

3. This proposition of law is also not disputed by the learned Assistant Solicitor General.

4. Thus, this Court has no hesitation in reaching to the conclusion that the refusal to make reference by the Under Secretary vide its order dated 22.11.2005 is not proper and the same is accordingly set aside. It is directed that the respondent no.1 shall take necessary steps for making a suitable reference to the appropriate Tribunal in respect of the dispute raised by the petitioner at the earliest. Considering the nature of dispute raised by the petitioner, it is expected that the respondent no.1 shall take a decision positively within a period of 90 days from the date of presentation of certified copy of this order.

5. The present writ petition is accordingly allowed.

Sd/-
P. Sam Koshy
Judge