

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 545 of 2017**

1. Asstt. General Manager, Industrial Relation Department, Bhilai Steel Plant, Bhilai District -Durg, Chhattisgarh. (Respondent No. 1 in the Writ Petition).
2. Manager, Blooming and Billet Mill, Co - Operative Canteen, Bhilai Steel Plant, Bhilai, District Durg Chhattisgarh.

---- Appellants**Versus**

1. K. V. Satyanarayana S/o K. Krishna Rao, Aged About 36 Years, R/o Jhopdi, In Front of Block No. 43, K. L. C., Sector 11, Bhilai, District Durg, Chhattisgarh.
2. Presiding Officer, Labour Court, District : Durg, Chhattisgarh. (Respondent No. 3 in the Writ Petition).

---- Respondents

For Appellants	:	Dr. N. K. Shukla, Sr. Advocate with Ms. A. Sen Gupta, Advocate.
For State	:	Shri P. N. Bharat, Additional, Advocate General.
For Respondent No.1	:	Shri P. K. Moitra, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu****Judgment on Board****20/08/2018****Per Ajay Kumar Tripathi, C.J.**

1. The appeal has been preferred by the appellants i.e, Bhilai Steel Plant, as well as what is known as Blooming & Billet Mill, Co-operative Canteen, Bhilai Steel Plant, against the judgment or order dated 27.10.2017 passed in Writ Petition No.146/2003.
2. The private respondent approached the High Court under Article 226/227 of the Constitution of India assailing the order of the Labour Court since it sustained the preliminary objection of the appellants that the issue with regard to the termination of the private respondent from the service of the

respondent was not maintainable before the Labour Court as the issue will be decided by the Registrar of C.G. Co-operative Societies as per Act, 1960 since the private respondent was an employee of a Co-operative Society so it can not be an industrial dispute.

3. Response to the preliminary objection was filed on behalf of the private respondent stating that the question has been squarely answered in a Division Bench decision which had been passed by the Madhya Pradesh High Court rendered way back in the year 1996. The said decision of the Division Bench which held that an employee of the statutory canteen was as much of an employee of the Bhilai Steel Plant was upheld even by the Hon'ble Supreme Court.
4. The Labour Court rejected the reference on such preliminary objection and, therefore, the writ application was filed.
5. The learned Single Judge took note of the details of the order which had been passed by Madhya Pradesh High Court in identical situation in case of **Steel Authority of India Versus I. Ramanayya** decided on 15.04.1996 in LPA No.208/1995, the extracts of the Division Bench opinion on the subject have been produced by Learned Single Judge in Para No.11 of the impugned order. Which reads 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.”

6. The learned Single Judge further took note that an effort was made by the Steel Authority of India limited to assail the Division Bench decision which failed since their SLP(c) No.10687/1996 was dismissed on 08.05.1996 and, thereafter another SLP(c) No.12423/1996 was filed by President of the Blooming & Billet Mill before the Supreme Court which was also dismissed. In other words, employee working in Blooming & Billet Mill Co-operative Canteen are to be treated to be employee of the Bhilai Steel Plant and, therefore, the learned Single Judge held that the reference made to the Labour Court was maintainable and a direction was issued for early hearing and disposal of the matter in accordance with law.
7. This decision and direction passed by the learned Single Judge is under challenge in the present appeal filed on behalf of the Steel Plant as well as the Blooming & Billet Mill, Co-operative Canteen belonging to the Bhilai Steel Plant.
8. Identical submissions are made on behalf of Dr. N. K. Shukla that the canteen in question is being run as a Co-operative Society and, therefore,

it is amenable to the Co-operative Societies Act and will not come under the ambit of the Industrial Dispute.

9. Such argument would have been open to the Company provided the issue was not answered by a Division Bench of the undivided Madhya Pradesh High Court and the said decision was not upheld by the Hon'ble Supreme Court. Since the law stands settled that the Canteen are statutory Canteen in nature and employees are employees of the Steel Plant, therefore, this argument which is being sought to be reagitated or revived is of no avail to the appellants and the learned Single Judge has rightly negated the findings given by the Labour Court, and directed adjudication of the matter on its own merits not doing the reference made through the Labour Court to be valid.
10. A last ditch effort was made on behalf of the learned senior counsel on the basis of a decision of the Hon'ble Supreme Court rendered in the case of **Balwant Rai Saluja & Anr Versus Air India Limited & Ors** reported in **2014 (9) SCC 407** for the proposition that the status of workmen being an employee of the factory is only for the purposes under the Factories Act, and not for other issues. It is his argument that drawing analogy from the above decision the employee working under the Co-operative Societies are not required to be treated as employees of the factory but of the Society.
11. With due respect Dr. N. K. Shukla the said decision of the Hon'ble Supreme Court rendered in the case of **Balwant Rai Saluja & Anr Versus Air India Limited & Ors (supra)** was in relation to the employees hired by a contractor to work in the statutory canteen which is not the case in the present dispute. Hiring of the private respondent by the Co-operative Society is not disputed and it has been held to be part and parcel of the Bhilai Steel Plant, in the settled legal position way back in

the year 1996 and upheld by the Hon'ble Supreme Court. The same cannot be shaken-off now by the appellants. The learned Single Judge rightly referred the matter to the Labour Court for an early adjudication on the reference made against termination or removal of the private respondent.

12. On due consideration, this writ appeal has no merit and the same is fit to be dismissed and it is hereby dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge