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HIGH COURT of CHHATTISGARH, BILASPUR**Writ Petition (L) No. 26 of 2018**

Nakul Kaushik S/o Shri Tularam Kaushik, aged about 35 years, R/o village Sambalpuri, Post Sakri, Police Station Sakri, District Bilaspur (CG).

----Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Public Works Department, Mantralaya, Naya Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.
2. Chief Engineer, Public Works Department, Bilaspur Range, District Bilaspur, Chhattisgarh.
3. Executive Engineer, Public Works Department, Bilaspur Division No. 1, District Bilaspur, Chhattisgarh.
4. Assistant Labour Commissioner, First Floor, New Composite Building, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri KPS Gandhi, Advocate.
For State	:	Shri Gary Mukhopadhyay, Govt Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****07.02.2018**

1. The present petition under Article 226 of the Constitution of India has been filed assailing the order dated 26.12.2017 passed by the Assistant Labour Commissioner, Bilaspur, rejecting the industrial dispute raised by the petitioner on the ground of delay and laches.
2. The facts relevant for adjudication of the case is that, the petitioner was appointed as daily wage worker in the year 1994 under the respondent No.3. He continued in employment till January, 2001. Thereafter he was not given employment.
3. Though the petitioner was discontinued from employment w.e.f.

31.01.2001, for the first time he raised a dispute almost after about 17 years i.e. on 03.11.2017 before the Assistant Labour Commissioner, who vide impugned order dated 26.12.2017 (Annexure P/1) rejected the application only on the ground of delay.

4. True it is that the Labour Commissioner could not have decided the matter on the ground of delay and should have left the issue to be decided by the court, but the factual matrix of the case cannot be ignored i.e. no justification or proper explanation has been provided by the petitioner explaining the inordinate delay in raising the industrial dispute.
5. Another aspect which cannot be brushed aside is the fact that after discontinuance of the petitioner from service, in the year June, 2010, there is an amendment which has been brought to Industrial Disputes Act by adding Section 2-A w.e.f. 15.09.2010. For ready reference, this amended provision is reproduced herein as under :

2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute-

(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

(2) Notwithstanding anything in section 10, any such workman as is specified in sub-section (1) may, make an application in the prescribed manner direct to the Labour Court for adjudication of the dispute referred to therein after the expiry of 45 days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and on receipt of such application, the Labour Court or Tribunal shall have

powers and jurisdiction to adjudicate upon the dispute, as it if were a dispute raised to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3). The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)."

6. If for any reason, the petitioner could not raise industrial dispute by 15.09.2010, he ought to have subsequently raised a dispute within the period specified by the amended provision of law. The petitioner in the instant case has not taken any steps for raising a dispute within the stipulated period under the amended provision, neither has he tried to file a direct application before the Labour Court in the light of sub-section 2 of Section 2-A of the Act.
7. Given the aforesaid factual matrix of the case, this court is of the opinion that the Assistant Labour Commissioner does not seem to have committed any error while rejecting the application on the ground of delay and laches. Even otherwise, there is a judgment of this court in case of Municipal Corporation, Rajnandgaon Vs. Narayan Lal Sinha, ILR 2016 Chhattisgarh 638, wherein it has been held that the dispute pertaining to termination and dismissal has to be raised in the light of the amended provisions of under Section 2-A of the Industrial Disputes Act.
8. This court has also recently in case of Ramkrishna Das Vs. Municipal Corporation, Rajnandgaon (Writ Petition (L) No. 15 of 2018, decided

on 25.01.2018) and two other connected petitions, has upheld the order of Labour Court, Rajnandgaon, rejecting the claim application of the petitioner on the ground of delay and laches in the light of new amended provision of the Industrial Disputes Act.

9. This court thus does not find any merit in the petition. The same deserves to be and is hereby rejected.

Sd/-
(P.Sam Koshy)
Judge

inder