

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (L) No.5518 of 2010

1. State of Chhattisgarh, through the Secretary, Department of Water Resources, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)

(The petitioner No.1 was not a party before the learned Labour Court but has been impleaded as petitioner No.1 in the instant petition as the proper course is to implead the State Government through the Secretary of the concerned department)

2. Department of Water Resources, through the Sub Divisional Officer, Hasdeo Bayi Tat Nahar, Division No.4, Seoni, District Janjgir-Champa (C.G.)

---- Petitioners

Versus

Govind Ram, S/o Buduram, Aged about 44 years, Former Chowkidar, Address Mu. Post Sarwani, Tah. Champa, District Janjgir-Champa (C.G.)

---- Respondent

For Petitioners/State:	Mr. Gary Mukhopadhyay, Govt. Advocate.
For Respondent:	Mr. Vinod Deshmukh and Mr. K.P.S. Gandhi, Advocates.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/08/2018

1. The appropriate Government referred the industrial dispute to the Presiding Officer, Labour Court for adjudication as to whether the application filed by the respondent after 12 years from the date of his termination is valid and proper and he is entitled to what relief, which was answered by the Labour Court in favour of the respondent against which this writ petition has been filed by the State/petitioners herein.
2. Learned Government Advocate for the petitioners/State would submit that delay of 12 years was not explained by the respondent/workman as he was terminated from service w.e.f. 30-6-1996 and the matter was referred to the appropriate Government on 25-11-2009 and no

explanation was offered by the respondent/workman, as such, the matter deserves to be remitted to the Labour Court for considering afresh in the light of judgment of the Supreme Court in the matter of Ajab Singh v. Sirhind Cooperative Marketing-cum-Processing Service Society Limited and another¹.

3. On the other hand, learned counsel for the respondent would support the impugned award.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
5. The Supreme Court in the matter of Ajab Singh (supra) has clearly held that the provisions of Article 137 of the Limitation Act, 1963 are not applicable to the proceedings under the Industrial Disputes Act, 1947.
6. In this case, though plea of limitation has been taken before the Labour Court, but the Labour Court has rightly held that the provisions of Article 137 of the Limitation Act are not applicable to the reference made under Section 10 of the Industrial Disputes Act, but delay ought to have explained by the workman as it has been explicitly raised by the petitioners.
7. Question of limitation has been inserted w.e.f. 15.9.2010 in the Industrial Disputes Act which provides 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

1 (1999) 6 SCC 82

workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal or adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred 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)."

8. Reverting to the facts of the present case, though delay has not been explained by the respondent/workman, but considering the finding that the provisions of Article 137 of the Limitation Act are not applicable to the proceedings under the Industrial Disputes Act and in view of the fact that no back-wages has been awarded by the Labour Court to the respondent/workman, this Court is not inclined to interfere with the award passed by the Labour Court entertaining the industrial dispute.
9. Accordingly, the writ petition is dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge