

HIGH COURT OF CHHATTISGARH, BILASPUR
WP No.785 of 2004

Bharat Aluminium Company Ltd. Through General Manager, BALCO,
 Dist-Korba (CG)

---- Petitioner

Versus

- 1.** S.S. Ali, R/o Kanka Azad Road, Burhanpur (M.P.)
- 2.** President, Industrial Court of Chhattisgarh, Mahanadi Khand, Near
 Dau Kalyan Singh Bhavan (Mantralaya) Raipur (CG)
- 3.** Presiding Officer, Labour Court, Bilaspur (CG)

---- Respondents

For Petitioner	:	Mr.N.K.Vyas, Advocate
For Respondent No.1	:	Mr.Afroz Khan, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

16/1/2018

- 1.** Respondent No.1 filed an application under Section 31 (3) read with Section 61 of the Chhattisgarh Industrial Relations Act, 1960 before the Labour Court questioning the order for withdrawal of alleged and conditional resignation, to promote him and to implement the suggestions offered by him. That application was opposed by the petitioner. Thereafter, order of resignation was passed by the petitioner during pendency of the reference. The Labour Court by its order dated 25.6.1987 dismissed the application while deciding preliminary issues. That order was assailed by respondent No.1 before the Industrial Court in appeal. The Industrial Court by its order dated 7.9.1993 allowed the appeal filed by respondent No.1 and directed the Labour Court to decide all the issues after recording of evidence. Upon remand, amendment application was filed by respondent No.1. That application was allowed by the Labour Court vide order dated 28.11.1994. Evidence was led by respondent No.1, however, the

petitioner's opportunity to lead evidence was closed on 29.2.1996. The Labour Court by its order dated 30.4.1996 reinstated respondent No.1 with full back wages. Against the said order, the petitioner preferred an appeal before the Industrial Court. That appeal was dismissed by the Industrial Court by order dated 3.2.2004 leading to filing the present writ petition.

2. Mr.N.K.Vyas, learned counsel for the petitioner, would submit two folds submission:-

(i) That, by order dated 29.2.1996 the Labour Court declined to grant further opportunity to the petitioner to lead evidence is unsustainable and bad in law.

(ii) That, order of the Labour Court setting aside the order accepting application for voluntary retirement of respondent No.1 is also unsustainable and bad in law.

3. Mr.Afroz Khan, learned counsel for respondent No.1, would submit that order dated 29.2.1996 is strictly in accordance with law as reference was pending since 1984 and last opportunity was granted to the petitioner to lead evidence, but the petitioner deliberately did not keep their witnesses present, therefore, it has rightly been closed. He would further submit that the Labour Court has rightly set aside the order accepting application for voluntary retirement of respondent No.1 and releasing him and it has been affirmed by the Industrial Court, as such, concurrent finding of fact is based on evidence available on record and no interference is called for in exercise of power conferred under Article 226/227 of the Constitution of India.

4. I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also

gone through the records with utmost circumspection.

5. So far as the order dated 29.2.1996 is concerned, the Labour Court has clearly recorded a finding that no reason was assigned by the petitioner in not keeping their witnesses present despite that was last date fixed for giving evidence on behalf of the petitioner.
6. At this stage, it would be appropriate to notice Section 78-B of the Act of 1960 which provides as under:-

“78-B. Time limit for disposal of cases by Labour Courts, etc.”-(1) The Labour Court or the Industrial Court shall pronounce its award or decision ordinarily within a period of one hundred and eighty days from the date on which the application is made or the dispute is referred to it.
 (2) The Industrial Court shall pronounce its decision in an appeal ordinarily within a period of ninety days from the date on which appeal is made to it.
 (3) Where the Labour Court or the Industrial Court is unable to make its award or pronounce its decision within the period specified in sub-section (1) or sub-section (2), as the case may be, it shall record the reason therefor.”

The aforesaid provision clearly provides that the Labour Court is obliged to pronounce its award or decision within a period of one hundred and eighty days from the date on which the application is made or the dispute is referred to it.

7. In the instant case, the matter was remitted by the Industrial Court to the Labour Court on 7.9.1993 and the impugned order was passed on 29.2.1996 declining further time to the petitioner to lead evidence. In view of the provisions contained in sub-section (1) of Section 78-B of the Act of 1960, it cannot be held that the Labour Court was unjustified in refusing adjournment to the petitioner.
8. Coming back to merits of the case, the Labour Court and the Industrial Court have concurrently held that the order accepting

application for voluntary retirement of respondent No.1 is unjust and improper and it is contrary to law. The said finding is based on evidence available on record, which is neither perverse nor contrary to record. I do not find any merit in this writ petition.

- 9.** Accordingly, the writ petition being without substance is liable to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-