

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 869 of 2016**

Manoj Kumar Shahi S/o Shri B. N. Shahi, Aged About 43 Years
 Permanent Address M. K. Shahi, L. I. G. 3133 Vikas Colony, Plan 3,
 Panaki, Kalyanpur Road, Kanpur, 208017, Presently Posted at G. M.
 Mines, Kadia Iron and Dolomite Mine, Essel Mining & Industries Ltd.
 Barbil Jharkhand 758035. **--- Petitioner**

Versus

1. Steel Authority of India Limited through Chairman Steel Authority of India Limited, ISPAT Bhawan Lodhi Road, New Delhi 110003, Delhi
2. General Manager, Bhilai Steel Plant, Steel Authority of India Limited , Hirri Mines Tahsil Belha, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh **--- Respondents**

Presence :

For the petitioner : Dr. Shiv Kumar Shrivastava, Advocate

For the respondents : Mr. Sandeep Dubey, Advocate

Hon'ble Shri Justice P. R. Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Goutam Bhaduri, Judge

ORDER ON BOARD**Per Goutam Bhaduri, J****20.06.2019**

1. The present petition is against the order dated 18th December 2015 passed by the Central Administrative Tribunal, Bilaspur Bench whereby the O.A. filed by the petitioner was dismissed.
2. The resume of the facts are that the petitioner preferred an Original Application for grant of encashment of leave stating that at the time of

acceptance of resignation he was entitled to receive the same. The facts would show that the resignation was tendered by the appellant on 07.04.2011 and thereafter by a letter dated 13.04.2011, the petitioner was asked by the respondents to deposit 3 months salary, which was instantly deposited by the petitioner. Subsequent thereto, the resignation of the petitioner was accepted on 03.06.2011. After acceptance of the resignation, the petitioner again submitted an application to the Management for encashment of leave due to him as on 11.04.2011. The said request was denied by the respondent i.e., Bhilai Steel Plant (Steel Authority of India Ltd.) which eventually led to filing of the petition before the Tribunal.

3. Learned counsel for the petitioner would submit that the petitioner was working as Senior Manager, Hirri Mines of BSP and was governed by the Rules applicable to the workers of mines that is the sole issue to be decided with the status of the petitioner, consequently he was entitled to encashment of leave. He further submits that specific plea was made by way of rejoinder before the Tribunal to this aspect but the Tribunal has failed to consider. Consequently it is submitted that the order dated 18.12.2015 is bad in law which is required to be set aside.
4. We have perused the order passed by the Tribunal. At the outset, it appears that the petitioner was not represented before the Tribunal thereby chose not to agitate the grievance. The order would show that even after the opportunity was provided and the case was adjourned, he did not appear before the Tribunal to put-forth his case. The reading of the order would reflect that the relation of master and servant between the petitioner and the respondents came to an end after resignation of the petitioner was accepted subsequent to filing of application to that effect. The order finds a reference of Rule 6.6.4 which purports that the leave encashment to the employee of the

SAIL would be applicable to the person on his attaining the age of 57 years. Admittedly at the time of tendering resignation the petitioner was aged about 42 years which is not in dispute. The primary pleading of the petitioner that he was employee of Mines was not pleaded in the main petition but subsequently projected by way of rejoinder. The fact remains that after resignation was accepted and the petitioner had deposited 3 months' salary to accept the resignation which was communicated to the petitioner by order dated 03.06.2011, the petitioner took somersault and again claimed for leave encashment.

5. Rule of 6.6.4 of of the Rules which is filed as Annexure R-2 is not in dispute which according to the order governing the petitioner was not pleaded at the very instance. Subsequently, it was raised by way of rejoinder which cannot be the part of the pleading. More so, when the said action of petitioner is fortified by the fact that the petitioner chose not to be represented, under the circumstances, we do not find any infirmity in the impugned order. Accordingly this writ petition is dismissed.

Sd/-
(P.R.Ramchandra Menon)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge