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**(1996) 02 RAJ CK 0022**

**In the Rajasthan High Court**

**Case No : Civil Writ Petition No. 274 of 1996**

Asstt. Engineer, Public Health and Engineering Deptt.

APPELLANT

Vs

Imamudeen Khatri and Another

RESPONDENT

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**Date of Decision : 02-02-1996**

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Industrial Disputes Act, 1947 — Section 10, 17A, 20

**Citation : (1996) 2 WLC 342 : (1996) 1 WLN 80**

**Hon'ble Judges : R.R. Yadav, J**

**Bench : Single Bench**

**Final Decision : Dismissed**

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## **Judgement**

R.R. Yadav, J.—The instant writ petition has been filed by the petitioner for quashing the impugned Award dated 13.11.92 Annx. 3 to the writ petition passed by the Labour Court, Bikaner.

2. The aforesaid impugned Award was given ex parte and was published on 9.7.93. An application for setting aside the ex parte Award of the Labour Court dated 13.11.92 published on 9.7.93 was prepared in the office of the petitioner on 5.8.93 and was presented and registered in the Labour Court, Bikaner on 24.8.93.

3. It is strenuously contended by the learned counsel for the petitioner Mr. Gopi Kishan Vyas before me that on passing of an ex parte Award by the Labour Court, Bikaner it has not become functus officio. According to him, in view of Sections 17A and 20 of the Industrial Disputes Act, 1947 proceedings with regard to a reference u/s 10 can not be deemed to be concluded until expiry of 30 days from the date of publication of the Award.

4. It is next contended by the learned counsel for the petitioner that since application for setting aside the ex parte Award was prepared on 5.8.93 while it was published on 9.7.93, therefore, the application for setting aside the ex parte

Award must be treated to be within limitation.

5. There is no quarrel about the proposition of law as argued by the learned counsel for the petitioner about the jurisdiction of the Labour Court to entertain an application to set aside the impugned ex parte Award until expiry of, 30 days from the date of publication of the Award. I am of the opinion, that until the expiry of 30 days from the date of publication of the Award, the Labour Court retains jurisdiction over the dispute referred to it for adjudication and upto that date, it has power to entertain an application in connection with such dispute. Thus, where an application for setting aside an ex parte Award was filed within 30 days from the date of its publication, the Tribunal is always competent to entertain it. But if such application is moved beyond 30 days from the date of publication of the Award then such application is not maintainable.

6. As regards the second contention of the learned counsel for the petitioner to the effect that since the application for setting aside the impugned ex parte Award was prepared in the office of the petitioner on 5.8.93, therefore, its presentation and registration before the Labour Court on 24.8.93 is in consequential, is not acceptable to me.

7. In my considered opinion, the date of preparation of application in the office of the petitioner on 5.8.93 for setting aside the impugned ex parte Award dated 13.11.92 which was published on 9.7.93 is not relevant for computing the limitation of 30 days. In fact, limitation is to be computed from the date of its presentation and. registration before the Labour Court, which has been done in the present case on 24.8.93. Thus, in the instant case, if limitation is computed from the date of its presentation and its registration before the Labour Court then it is clearly barred by time.

8. In view of the aforesaid facts and circumstances, in the present case, it is established that the application for setting aside the impugned ex parte Award was made beyond 30 days, therefore, the Labour Court has no jurisdiction to entertain the same.

9. My aforesaid view is buttressed by a decision rendered by the Apex Court in the case of Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal and Others,

10. I have perused the impugned ex parte Award, which is based on evidence and as such, does not require interference of this Court under Article 226 of the Constitution of India.

11. As a result of the aforesaid discussion the instant writ petition is hereby dismissed in limine.