

(2014) 06 MP CK 0186
In the Madhya Pradesh High Court
Case No : WP No. 6996/2013
In Re: WP No. 6996/2013

Date of Decision : 24-06-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2014) 06 MP CK 0186

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Vivek Jain and R.K. Upadhyay, Advocate for Road Transport Corporation, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Sujoy Paul, J.—With the consent of parties, matter is finally heard.

2. This petition filed under Article 227 of the Constitution challenges the order of Industrial Court passed in Civil Appeal No. 3/MPIR/12 dated 26.07.2013.

3. The brief facts necessary for adjudication of this matter are that the employee filed an application u/s 31(3) of M.P. Industrial Relations Act, 1966 (MPIR Act) before the Labour Court on 30.05.2005. The State Government amended the MPIR Act by order dated 20.10.2005 and took out the MPRTC from the "Scheduled" Industry.

4. It is admitted between the parties that said amendment dated 20.10.2005 was declared ultra vires by this Court. Thereafter by making amendment in MPIR Act w.e.f. 14.08.2007, the respondent industry (Public Motor Transport) was taken out from the purview of MPIR Act. The employer filed its reply before the Labour Court and took objection about limitation. It is submitted that employee has not filed his application within two years, as per statutory limitation prescribed u/s 62 of MPIR Act. Another objection taken is regarding maintainability of the proceedings after subsequent amendment in the MPIR Act, 14.08.2007 which is held to be intra vires by this court. The Labour Court did not frame any issue on these two objections and decided the matter. This order was

put to test before Industrial Court in Civil Appeal No. 3/MPIR/12. The Industrial Court opined that Labour Court has erred in not framing issues regarding limitation and maintainability of proceedings after the amendment in the MPIR Act. In addition, it is directed that Labour Court shall permit the parties to lead evidence.

5. Shri Vivek Jain submits that Industrial Court itself should have decided the issue of maintainability rather remanding it back to the Labour Court. He also criticized the order by contending that no evidence is required to decide pure question of law regarding maintainability.

6. Prayer is opposed by Shri R.K. Upadhyay, learned counsel for the other side.

7. I have heard learned counsel for the parties and perused the record.

8. So far question of limitation is concerned, it is not in dispute that a specific objection is taken by the employer in the written statement. The Court below should have framed issue in this regard. I find no jurisdictional error or procedural impropriety in the order of Industrial Court in remanding the matter back to the Labour Court to frame issue regarding limitation and permit the parties to lead evidence.

9. So far other direction about framing of issue regarding jurisdictional part is concerned, in my opinion, there is no legal flaw in this direction. However, no evidence is required, so far the issue of maintainability is concerned. It is a pure question of law which needs to be decided. No doubt, question about jurisdiction could have been decided by the Industrial Court itself, but the said Court in its discretion felt it proper to remand it back to the Labour Court to decide it in accordance with law. It cannot be said that this course was not at all available to the Industrial Court.

10. This is settled in law that jurisdiction of this Court under Article 227 of the Constitution cannot be exercised as an appellate Court. Another view is possible, is not a ground for interference under Article 227 of the Constitution (See: Shalini Shyam Shetty and Another Vs. Rajendra Shankar Patil,).

11. Considering the aforesaid, I am inclined to interfere with the impugned order only to the extent Labour Court was directed to permit the parties to lead evidence on the question of maintainability of petition. To this extent, the Industrial Court's order is set aside. Rest of the order is affirmed. Petition is disposed of.