
(2016) 03 MP CK 0027
In the Madhya Pradesh High Court
Case No : WP/3991/2016

Narendra Kumar Sharma

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 09-03-2016

Acts Referred:

Industrial Disputes Act, 1947 — Section 2-A
Madhya Pradesh Industrial Relations Act, 1960 — Section 62

Citation : (2016) 03 MP CK 0027

Hon'ble Judges : Sujoy Paul, J.

Bench : Single Bench

Advocate : Uttam Maheshwari, for the Appellant; Sudeep Chatterjee, Panel Lawyer, for the Respondent

Final Decision : Allowed

Judgement

Sujoy Paul, J.

1. Since pure question of law is involved in this matter, with the consent matter is finally heard on admission stage.
2. The petitioner is aggrieved by order of Assistant Labour Commissioner dated 5.2.2016 whereby he has declined to refer the industrial dispute for adjudication on the ground that as per recent amendment in the Industrial Disputes Act, cases where termination order is passed before three years cannot be referred.
3. Shri Maheshwari, learned counsel for the petitioner submits that petitioner was terminated in the year 2002. He raised industrial dispute on 19.10.2015. The amendment in the ID Act became part of Statute with effect from 11.11.2015. He submits that at the time of petitioner's was termination, there was no limitation to raise an industrial dispute. The right to prefer an appeal/ dispute is a statutory right which cannot be taken away because of a subsequent amendment. He relied upon 1992 MPLJ 485 (Gaya Prasad and others Suresh Kumar and others).

4. Prayer is opposed by Shri Chatterjee, Panel Lawyer.

5. I have heard the learned counsel for the parties.

6. It is seen that the point involved in this case is no more *res Integra*. In 1993 MPLJ 131 (MPSRTC vs. Meharban Singh and others), this court considered the impact of amendment in Section 62 of the Madhya Pradesh Industrial Relations Act, 1960. By way of aforesaid amendment, limitation of one year was prescribed to assail the termination order. This court opined that before incorporation of period of limitation by way of amendment, no limitation was prescribed. The vested right of an employee to approach the Labour Court in the manner provided and during the time prescribed prior to amendment cannot be taken away by way of amendment. The same view was taken by the Division Bench in , 1994 MPLJ 571 (MPSRTC vs. Jaiprakash Narayan Tiwari). Section 2-A of the ID Act was amended with effect from 15.9.2010. The Gwalior Bench of this court after considering the aforesaid judgments in W.P. No. 540/2013 (Prabandh Sanchalak, M.P. Rajya Krishi Vipnan. Board, Bhopal vs. Kamalkant Shukla) opined that if at the time of termination of workmen, no limitation was prescribed, the said right to assail the termination being vested right, cannot be taken away by amendment. Thus, in my view, the amendment in the ID Act is no impediment for the present petitioner to raise the industrial dispute. Thus, the order impugned dated 5.2.2016 is set aside. However, it is made clear that the competent authority/court will be at liberty to examine the aspect of delay in filing the industrial dispute while deciding the aspect of relief. The amendment in the ID Act is not an impediment for the present petitioner.

7. With the aforesaid observation, petition is allowed.