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**(2013) 11 MP CK 0084**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 5540 of 2013**

Praband Sanchalak and Others

APPELLANT

Vs

Kamal Kant Shukla

RESPONDENT

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**Date of Decision : 19-11-2013**

**Acts Referred:**

**Citation : (2013) 11 MP CK 0084**

**Hon'ble Judges : Sujoy Paul, J**

**Bench : Single Bench**

**Advocate : S.P. Jain, for the Appellant;**

**Final Decision : Dismissed**

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## **Judgement**

Sujoy Paul, J.—By filing this petition, the petitioner/employer has called in question the legality, validity and propriety of the order dated 17.7.2013, Annexure P-1. By this order the petitioner's application under Order 7 Rule 11 CPC was rejected by the Labour Court. The Appropriate Government referred an industrial dispute to the Labour Court. In the said case before the Labour Court, the employer filed an objection under Order 7 Rule 11 CPC on the ground that the workman was terminated on 1.6.1998 and industrial dispute was raised by him before the Conciliation Officer on 2.4.2012. Section 2A of the Industrial Disputes Act, 1947 was amended by the Government and in view of this amendment, a termination can be called in question only within three years. The workman has raised the dispute, after three years from his termination. Therefore, the matter is not maintainable.

2. The Labour Court rejected the said application on the ground that at the time of termination of workman, no limitation was prescribed in the Industrial Disputes Act. The amendment in Section 2A does not have retrospective effect.

3. The singular contention of Shri S.P. Jain, learned counsel for the petitioners is that after the amendment, the workman could have filed the dispute within three years. Since it is admittedly preferred after three years, it cannot be entertained.

4. In the considered opinion of this Court, this question is no more res integra. In M.P.S.R.T.C. Vs. Meharban Singh and Others, , considered the impact of amendment in Section 62 of M.P. 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 M.P. State Road Transport Corporation Vs. Jaiprakash Narayan Tiwari and Others, . Section 2A of the Industrial Disputes Act was amended w.e.f. 15.9.2010. The Division Bench opined that said amendment in MPIR Act will not take away the vested right to challenge the termination.

5. In view of the aforesaid principle of law laid down by the Division Bench, it is clear that at the time of termination of the workman, there was no limitation to challenge the same by raising dispute. The said right to assail the termination is held to be vested right by the Division Bench. Thus, in the opinion of this Court, there is no legal flaw in the order of the Labour Court. The Labour Court rightly opined that the amendment does not have retrospective effect and it will not deprive the workman to assail the termination which took place prior to the amendment. Petition is meritless and is hereby dismissed.