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CF-100

BEFORE THE HIGH COURT OF CHHATISHGARH
AT BILASPUR

IN THE MATTER OF W.P. No 3496 2004

LAXMI NARAYAN DUBEY,
OFFICE ASSISTANT GRADE-I
ACCOUNTS OFFICE, M.P.E.B,
TIFRA, BILASPUR, NOW
RETIRED, R/O. BEHIND
SANTOSH BHUVAN HOTEL,
DABRIPARA, BILASPUR (C.G.)

P.R. No. 3493704
Presented by Shri. Rajendra Prasad
dated 24/9/04

: : : : **PETITIONER**

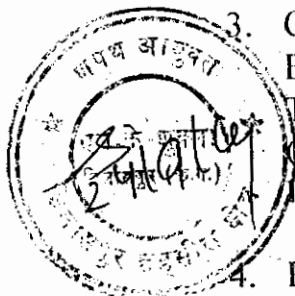
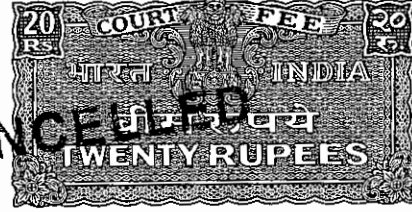
VERSUS

1. MADHYA .PRADESH
ELCTRICITY BOARD NOW
MADHYA .PRADESH STATE
ELCTRICITY BOARD .,
THROUGH SECRETARY
M.P.S.E.B., RAMPUR,
JABALPUR (M.P.)

2. OR P. MISHRA,
THE THEN SR. ACCOUNTS
OFFICER, M.P.E.B., BILASPUR
NOW RETIRED ASSISTANT
CHIEF (ACCOUNTS) RESIDING
AT JABALPUR,
CARE OF
SECRETARY, M.P.S.E.B.,
JABALPUR (M.P.)

3. CHHATTISGARH STATE
ELECTRICITY BOARD,
THROUGH SECRETARY
C.S.E.B, DAGANIA,
RAIPUR (C.G)

4. PRESIDING OFFICER,
LABOUR COURT BILASPUR,
RAJIVE GHANDI MARG, NEAR
OLD SBR COLLEGE,
BILASPUR (C.G)



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5. CHHATTISGARH STATE
THROUGH THE SECRETARY
ENERGY DKS BHAWAN
MANTRALAYA RAIPUR (C.G.)
6. STATE OF M.P.
THROUGH THE SECTRETARY
ENERGY AND POWER,
VALLABH BHAVAN,
BHOPAL (M.P)
7. UNION OF INDIA THROUGH
THE SECRETARY TO THE
GOVT. OF INDIA MINISTRY OF
ENERGY AND POWER,
NEW DELHI

RESPONDENTS

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF AN
APPROPRIATE WRIT/ORDER OR DIRECTION AS
DEEM FIT

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 3496/ 2004 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p><u>31.1.2005</u></p> <p>Shri Pradeep Saxena, Advocate with Shri Ajay Dwivedi, Counsel for the petitioner.</p> <p>Shri Thakur Vijay Singh, Senior Standing counsel for Union of India/ respondent No.7.</p> <p>Heard.</p> <p>This petition has been filed against the order dated 15.3.2004 passed by the Labour Court, Bilaspur by which an application of the petitioner, filed under Sections 31(3) read with Sections 61 & 64-A of the M.P. Industrial Relations Act, 1960, claiming entitlement to the post of higher officers cadre and direction to the Board to appoint the petitioner in the higher officers cadre along with some other reliefs) has been dismissed.</p> <p>During the course of arguments, learned counsel for the petitioner submits that admittedly the order passed by the Labour Court was appealable before the Industrial Court under Section 65 of the M.P. Industrial Relations Act 1960. He further submits that the impugned order has been passed on 15.3.2004, whereas the petitioner has retired on 31.12.2002. In the light of aforesaid situation, he argues that since the petitioner is no more a workman within the meaning of law,</p>	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक सन् 200

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p>applicable, therefore, he has not availed the statutory remedy of appeal and has directly filed this writ petition before this Court.</p> <p>In the opinion of this Court, the contention of learned counsel for the petitioner is not correct. Section 65 of the M.P. Industrial Relations Act, 1960 deals with the provisions of appeal.</p> <p>Section 65 is quoted as under : (only relevant portion quoted).</p> <p><i>Appeal:- (1) Notwithstanding anything contained in the Act, an appeal shall lie to the Industrial Court-</i></p> <p>(a) <i>against a final decision of a Labour Court in respect of a matter falling under clause (a) or clause (c) of paragraph (A) or paragraph (B) or paragraph (C) of sub-section (1) of section 61 by the "person affected" or the representative of employees or the employer;</i></p> <p>(b) <i>against a conviction by a Labour Court, by the person convicted;</i></p> <p>(c) <i>against the acquittal by a Labour Court, by the State Government;</i></p> <p>(d) <i>for enhancement of sentence awarded by a Labour Court, by the State Government:</i></p> <p><i>Provided that no appeal shall lie against an order of a Labour Court under section 107.</i></p>	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक

सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

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	<p>Sub-clause (a) of Section 1 of Section 65 deals with the provisions that the appeal shall be filed by the person affected or the representative of the employees or the employer. In the opinion of this Court, since the order has been passed, affecting the rights of the petitioner, therefore, the petitioner can be classified under the expression of word "person affected" under Section 65 (1) (a) of the Act, and an appeal by the said person would be competent and maintainable before the Industrial Court.</p> <p>Since an alternative remedy of appeal is available with the petitioner, this Court is of the opinion that the writ petition should not be entertained before the said remedy ^{is} exhausted by the petitioner.</p> <p>While dictating the order, learned counsel for the petitioner submits that as per the provisions of sub-section 2 of Section 65 of the Act, limitation for filing the appeal is 30 days, therefore, some observations be made so that the appeal filed be entertained by the Industrial Court.</p> <p>Needles to say at this stage that there are provisions for condonation of delay in filing the appeal. The petitioner may file an appeal, availing the provisions of condonation of delay in the manner prescribed and if such an appeal is filed along with an application for</p>	

XI-HC—78

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मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

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	<p>condonation of delay, the same may be considered and disposed of by the Industrial Court on its own merits in accordance with law.</p> <p>With the aforesaid observations, this petition stands finally disposed of.</p> <p>In view of this order I.A.No.7355/2004 for urgent hearing also stands disposed of.</p>	<p>Sd/- Sunil Kumar Sinha Judge</p>