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HIGH COURT OF CHHATTISGARH, BILASPUR

**D.B. Hon'ble Shri Rajeev Gupta, C.J. &
Hon'ble Shri Sunil Kumar Sinha, J.**

WRIT APPEAL No.45 of 2007

Bharat Aluminium Mazdoor Sangh
(INTUC) and another

Vs.

Managing Director,
Bharat Aluminium Mazdoor Sangh
and others

WRIT APPEAL NO.46 OF 2007

Bharat Aluminium Mazdoor Sangh
(INTUC) and another

Vs.

Managing Director,
Bharat Aluminium Mazdoor Sangh
and others

JUDGMENT

For consideration

Sd/-
Sunil Kumar Sinha
Judge

Hon'ble Shri Justice Rajeev Gupta

I agree

Sd/-
Chief Justice

Post for Judgment : 31/07/2008

Sd/-
Sunil Kumar Sinha
Judge



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HIGH COURT OF CHHATTISGARH, BILASPUR

**D.B. Hon'ble Shri Rajeev Gupta, C.J. &
Hon'ble Shri Sunil Kumar Sinha, J.**

WRIT APPEAL No.45 of 2007

APPELLANTS

1. Bharat Aluminium Mazdoor Sangh (INTUC), through its General Secretary, BALCO Nagar, Korba, District, Korba, Chhattisgarh (C.G)
2. Lalit Singh Kanyal, S/o Late K.S. Kanyal, Aged about 59 years, Employment No.2272, R/o 401/31-B, BALCO Nagar, Korba, Distt. Korba, Chhattisgarh.

Vs.

RESPONDENTS

1. Managing Director, Bharat Aluminium Company Limited (BALCO), BALCO Nagar, Korba, Distt. Korba, Chhattisgarh.
2. Inspector under the Chhattisgarh Industrial Employment (Standing Order) Act, 1961, Korba, Distt. Korba, Chhattisgarh.
3. State of Chhattisgarh, Through the Secretary, Government of Chhattisgarh, Department of Labour, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh

WRIT APPEAL No.46 of 2007

APPELLANTS

1. Bharat Aluminium Mazdoor Sangh (INTUC), Through its General Secretary, BALCO Nagar, Korba, Distt. Korba, Chhattisgarh
2. M.S. Chauhan, Technical Officer, Employment No.7433, Bharat Aluminium Company Limited, BALCO Nagar, Korba, Distt. Korba, Chhattisgarh.

Vs.

**RESPONDENTS**

1. Managing Director, Bharat Aluminium Company Limited (BALCO), BALCO Nagar, Korba, Distt. Korba, Chhattisgarh
2. Factory Manager Fabrication, SRS, Bharat Aluminium Company Limited, Korba, Distt. Korba, Chhattisgarh.
3. Inspector under the Chhattisgarh Industrial Employment (Standing Order) Act, 1961, Korba.
4. State of Chhattisgarh, through the Secretary, Govt. of Chhattisgarh, Department of Labour, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh

**WRIT APPEALS UNDER SECTION 2(1) OF THE
CHHATTISGARH HIGH COURT (APPEAL TO DIVISION
BENCH) ACT, 2006**

Appearance:

Dr. N.K. Shukla, Sr. Advocate with Shri Rajeev Shrivastava, counsel for the Appellants.

Shri Abhishek Sinha, counsel for respondent no.1 in W.A.No.45/2007 and respondents No. 1 & 2 in W.A.No. 46/2007.

Shri N.K. Agrawal, Deputy Advocate General, counsel for respondents No.2 & 3 in W.A.No.45 of 2007 and respondents No.3 & 4 in W.A.No.46/2007.

JUDGMENT

(31.07.2008)

Following judgment of the Court was delivered by
Sunil Kumar Sinha, J.

(1) These writ appeals have been filed against the common order dated 09th of January 2007, passed by the learned Single Judge of this Court, whereby, a batch of writ petitions involving a common question of law were allowed by the learned single Judge.



(2) The facts briefly stated are as under:

The Inspector, Chhattisgarh Industrial Employment (Standing Orders) Act 1961 (hereinafter referred to as the Act), Korba, passed various orders exercising his powers under sub-section(2) of Section 15 of the Act whereunder he himself adjudicated the disputes raised by the appellants holding that the concerned appellants were the employees within the meaning of Section 3(d) of the Act read with section 2(13) of the Chhattisgarh Industrial Relations Act, 1960 and they shall be governed by the Standing Order of the Company. The last paragraph of one of such orders dated 6.3.2006 (impugned in W.P.No.1595/2006) is quoted as under:

12. Therefore, in view of discussion made herein above I Satya Prakash, Inspector, CG Industrial Employment (Standing orders) Act, 1961, Korba, District Korba, exercising power under sub-section (2) of section 15 of the Act, wherein I am conferred with the duty of administration of the Act, I direct the Managing Director, Bharat Aluminium Company Ltd., Balco Nagar, Korba to superannuate the applicant not before the date of superannuation i.e., not before 31.1.2008 and the applicant shall continue till he superannuates at the age of 60 as per Rule 5(d) of the Standing Orders of the Non-applicant.

(3) This action of the Inspector gave rise to many causes of action to the Company to file various writ petitions before the High Court. The Company contended before the learned single Judge that the orders passed by the Inspector were nullity for want of specific power and jurisdiction to adjudicate a dispute. They further contended that since a question of applicability of the standing orders had arisen in these matters, therefore, the matters had to be decided by the Labour Court as per the provisions of section 13 of the Act and no other Authority has



power to decide the question of applicability of the standing orders. Thus the impugned orders passed by the concerned Inspector were without jurisdiction. They further contended that the power of Inspector under the Act is to ensure the implementation of the provisions of the Act, after collecting information by way of inquiry and where a dispute with regard to the applicability and interpretation of a standing order was involved, the same was to be referred to the Labour Court, whose decision was final and binding on the parties.

(4) The learned single Judge held that there was a dispute with regard to the applicability and interpretation of the standing order between the parties and the Inspector was having no jurisdiction to decide the said issue in exercise of power under the provisions of Section 15 of the Act and while allowing the writ petitions the employees were granted liberty to approach the appropriate forum for adjudication of their status and applicability of the standing order in disputes to them. It is against this common order passed by the learned Single Judge, these writ appeals have been filed.

(5) Referring to the provisions of section 13, 15 & 17 of the Act, 1961, learned counsel for the appellants argued that the inspector was having authority to decide such disputes and to see that there was a proper implementation of the provisions of the Act and the standing orders, which were made in favour of the employees. Therefore, the orders passed by the Inspector were well within the jurisdiction and the learned single judge erred in law in quashing such orders.



(6) On the other hand, learned counsel for the Company opposed these arguments and supported the order passed by the learned single Judge.

(7) We have heard learned counsel for the parties at length and have also perused the records of the respective writ petitions.

(8) A perusal of the pleadings of the parties and orders passed by the concerned Inspector would show that the dispute between the Management and the employees were precisely as to whether the standing order which is meant for workmen was applicable to the employees who were appointed as workmen and thereafter upgraded to the post of Assistant Technical Officers (supervisory capacity) etc. In Writ Appeal No.45/2007, appellant no.2 was upgraded to the post of Assistant Technical Officer in the month of July 2003 and in Writ Appeal No. 46/2007, respondent no.2 was upgraded to the post of Technical Officer in the month of January 2003. The appellants contended that they will be governed by the provisions of the standing order whereas the Company contended that the appellants were employed in a supervisory capacity and they have been enjoying the perks, privileges and facilities of officers and were governed by different set of regulations. The employees have accepted the up-gradation order and thereafter accepted the age of retirement i.e., 58 years which is prescribed for the officers in supervisory capacity. The standing orders for Workmen of the Company provide the age of retirement u/s 5(d) for workmen i.e., 60 years. In these matters, the Inspector himself took the disputed points for his decision and he ultimately decided the dispute



with regard to the application and interpretation of standing orders, which in our considered opinion, was not in accordance with law.

(9) If we look into various provisions of the Act 1961, it would appear that section 13 of the Act provides that if any question arises as to the application or interpretation of a standing order, an employer, an employee or a representative of the employees may refer the question to the Labour Court having jurisdiction and the Court shall, after giving the parties an opportunity of being heard, decide the question and his decision shall be final and binding on the parties. Further section 15 provides for appointment of Inspectors and their powers and duties. Sub-section(1) of section 15 provides that the State Government may by notification appoint such officers of the Labour Department not below the rank of a Deputy Labour Officer, as it may think fit, to be Inspectors for the purposes of this Act. Such notification shall define the class of undertakings in respect of which and the areas within which they shall exercise their respective jurisdictions. Sub-section(2) of Section 15 provides that it shall be the duty of every such Inspector to ensure within the area of his jurisdiction the proper implementation of the provisions of this Act and the rules made thereunder and sub-section(3) provides that an Inspector may, within the area of his jurisdiction make such inquiries and collect such information from the employers and employees as he may consider necessary for the purposes of this Act. Further, section 17 of the Act, provides for penalties and procedure under certain circumstances. These provisions in the Act make it clear that the powers vested with the Inspectors, so appointed u/s 15 of the Act, are not adjudicatory. Sub-section (2) of section 15 which says



about the duty of such inspectors, only provides that they shall ensure the proper implementation of the provisions of the Act and the rules in their respective areas. By a clarification vide sub-section (3) it has been provided that the Inspectors while ensuring proper implementation may make such Inquiries as they consider necessary for that purpose. Nothing has been said by the Legislature about an adjudication of the disputes raised between the parties. It appears that the concerned Inspector in the garb of ensuring proper implementation of the Act *suo-motu* assumed the adjudicatory jurisdiction and has entered into deciding the disputes between the parties, particularly, the disputes in relation to application and interpretation of standing orders, for which, a specific provision vide section 13 has been provided by the Act and the exclusive jurisdiction has been vested with the Labour Court having jurisdiction over the area concerned.

(10) It is a settled principle of law that if a particular provision has been enacted by the Legislature for doing a particular act, in a particular manner, the said act shall be done in accordance with the particular provisions meant for it and not by any other strange device for the same, because in that situation any such act which goes against the specified provision would be without authority of law because the law has provided an authority for it. Had the powers of the Inspector which have been derived from sub-sections (2) & (3) of the Act would have been adjudicatory, there would have been some communication for it in the Act itself, which is not there and at the same time, a provision in the Act has been given by Section 13 for reference of a dispute, in which, a question arises as to the application or implementation of Standing



Order. A conjoint reading of sections 13, 15 & 17 of the Chhattisgarh Industrial Employment (Standing Orders) Act, 1961 makes it amply clear that the powers of Inspectors under the said Act are not adjudicatory and the Inspectors are not authorized to undertake the exercise of adjudication of the disputes, particularly the disputes regarding application and interpretation of the standing orders.

(11) For the foregoing discussions, we do not find any force in these appeals. The appeals are liable to be dismissed and are accordingly dismissed.

(12) No costs.

Sd/-
Chief Justice

Sd/-
Sunil Kumar Sinha
Judge