



2026:CGHC:12875



2026:CGHC:12875

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 219 of 2016

- Chhattisgarh Infrastructure Development Corporation Through The Managing Director, Chhattisgarh Infrastructure Development Corporation, C I D C, Shastri Chowk, Raipur District Raipur Chhattisgarh, Chhattisgarh
--- **Petitioner**

versus

1. Ramswarup Gupta S/o Shri K. P. Gupta, R/o Pandri, Posted As Assistant Grade III In Chhattisgarh Antvyaysayi Sahkari Vitt Vikas Nigam, Raipur, District Raipur Chhattisgarh, Chhattisgarh
2. Madhya Pradesh Road Transport Corporation, Through Its Managing Director, Habib Ganj, Bhopal Madhya Pradesh, District : Bhopal, Madhya Pradesh

--- **Respondent(s)**

WPL No. 223 of 2016

- Chhattisgarh Infrastructure Development Corporation Through The Managing Director, Chhattisgarh Infrastructure Development Corporation C.I.D.C. Shastri Chowk Raipur Distirct Raipur Chhattisgarh, Chhattisgarh
---**Petitioner**

Versus

1. Bengali Babu S/o Late Shri Gulab Khan, R/o Indira Colony, Baloda Bazar, Distirct Baloda Bazar Bhatapara Now Chhattisgarh, Chhattisgarh
2. M.P. Road Transport Corporation, Through Its Managing Director, Habib Ganj, Bhopal Mahdya Pradesh, District : Bhopal, Madhya Pradesh

--- **Respondent(s)**

WPL No. 231 of 2016

- Chhattisgarh Infrastructure Development Corporation Through The Managing Director, Chhattisgarh Infrastructure Development Corporation C.I.D.C. Shastri Chowk Raipur Distirct Raipur Chhattisgarh
---**Petitioner**

Versus

1. Mohd. Akbar Khan S/o Shri Ajumullah Khan, R/o Mauda Para Ear Sahara



Batteries, Tehsil And District Raipur Chhattisgarh, Chhattisgarh

2. M.P. Road Transport Corporation, Through Its Managing Director, Habib Ganj, Bhopal Mahdya Pradesh, District : Bhopal, Madhya Pradesh

--- Respondent(s)

WPL No. 222 of 2016

- Chhattisgarh Infrastructure Development Corporation Through The Managing Director, Chhattisgarh Infrastructure Development Corporation C.I.D.C. Shastri Chowk Raipur Distirct Raipur Chhattisgarh, Chhattisgarh

---Petitioner

Versus

1. Abdul Aziz S/o Late Shri Azimuddin, R/o Bayron Bazar Kasaipaara, Tahsil And Distirct Raipur Chhattisgarh, Chhattisgarh
2. M.P. Road Transport Corporation, Through Its Managing Director, Habib Ganj, Bhopal Mahdya Pradesh, District : Bhopal, Madhya Pradesh

--- Respondent(s)

WPL No. 228 of 2016

- Chhattisgarh Infrastructure Development Corporation Through The Managing Director, Chhattisgarh Infrastructure Development Corporation, Cidc, Shastri Chowk, Raipur District-Raipur Chhattisgarh, Chhattisgarh

---Petitioner

Versus

1. Durga Das Sahu S/o Shri Tulsi Das Sahu R/o Housing Board, Kota, Raipur, District-Raipur Chhattisgarh, Chhattisgarh
2. M. P. Road Tranhsport Corporation, Through Its Managing Director, Habib Ganj, Bhopal Madhya Pradesh , District : Bhopal, Madhya Pradesh

--- Respondent(s)

WPL No. 227 of 2016

- Chhattisgarh Infrastructure Development Corporation Through The Managing, Director, Chhattisgarh, Infrastructure Development Corporation, Cidc, Shastri Chowk,raipur, District-Raipur, Chhattisgarh, Chhattisgarh

---Petitioner

Versus

1. Suresh Daudia S/o Shri Bhuvan Laql Daudia, R/o Shivanagar Mathpurena,raipur, District-Raipur, Chhattisgarh, Chhattisgarh
2. M.P. Road Transport Corporation, Through Its Managing Director, Habib Ganj, Bhopal, Madhya Pradesh, District : Bhopal, Madhya Pradesh

--- Respondent(s)



For Petitioner/s	:	Mr. Anoop Majumdar, Advocate
For Respondent(s)/Workmen	:	Mr. Harshal Chouhan, Advocate
For M.P. RTC	:	Mr. Varun Sharma, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

18.03.2026

1. In these petitions, the petitioners have challenged the order passed by the Industrial Court, Chhattisgarh, Raipur in Civil Appeal Nos. 4,5,6,7,8 and 9/C.G.I.R. Act/A/11/2016 dated 14.09.2016, whereby, appeals preferred by the workmen were allowed and the petitioners herein were directed to make payment of arrears of salary (overtime and night halt allowance) within a period of 30 days.
2. The facts in brief are that the workmen were working with Madhya Pradesh State Road Transport Corporation (MPSRTC). After creation of State of Chhattisgarh the services of workmen were allocated to the State of Chhattisgarh and they were working under Chhattisgarh Infrastructure Development Corporation (CIDC) on various posts. Some of the workmen opted for voluntary retirement immediately after bifurcation of MPSRTC and creation of CIDC.
3. The workmen moved applications under Sections 31(3) and 108 of Chhattisgarh Industrial Relation Act, 1960 (hereinafter referred as Act, 1960) before the Labour Court claiming therein arrears of overtime allowance and night halt allowance for period from 1995 to 2002. They further pleaded that Rs. 1,14,833, Rs. 54,292, Rs. 118532, Rs. 53528, Rs. 91700, and Rs. 84376/- respectively have not been paid. A notice of demand was served on CIDC on 07.07.2004. In the conciliation proceedings, the officer of CIDC accepted its liability, but failed to honour his words.



4. CIDC filed reply to applications moved under Sections 31(3) of the Act of 1960 and denied averments made therein. It was pleaded that liability to pay arrears of allowances relates to the period prior to 31.12.2002 and as per the notification dated 27.12.2002 liability to pay dues of employees prior to said date is of MPSRTC. It was also pleaded that the claim of the workmen is barred by limitation under the CGIR Act, 1960.
5. The learned Labour Court framed issues, parties led evidence, and thereafter, award was passed, whereby CIDC has been directed to make payment of allowance to the workmen as under :-

Sr. No.	Name of Employee	Period of Work	Arrears of salary
01	Ram Swaroop Gupta	1995-2002	Rs. 114833/-
02	Bangali Babu	1995-2002	Rs. 54292/-
03	Mo. Akbar Khan	1995-2002	Rs. 118532/-
04	Abdul Aziz	1995-2002	Rs. 53528/-
05	Durga Das	1995-2002	Rs. 91700/-
06	Suresh Daudia	1995-2002	Rs. 84376/-

6. It is informed that earlier applications under Section 31(3) of Act of 1960 were moved before the Labour Court, which were rejected vide order dated 08.04.2013. Appeals were preferred before the Industrial Court and matter was remitted back for fresh adjudication vide order dated 12.08.2013. After remand, the learned Labour Court dismissed the applications moved by the workmen on the ground of delay as well as on merits vide order dated 23.01.2016. The workmen preferred separate appeals before the Industrial Court against said awards and all the appeals have been allowed vide order dated 14.09.2016. CIDC has preferred these writ petitions against order dated 14.09.2016.
7. Mr. Anoop Majumdar, Advocate appearing for CIDC would argue that the claim of the workmen was barred by limitation according to the provisions



of Section 62 of CGIR Act, 1960. It is also argued by Mr. Majumdar that the workmen failed to demonstrate that they were entitled for overtime and night halt allowances. He would submit that the learned Industrial Court has fastened liability with CIDC, but CIDC is not liable to settle the dues of employees prior to year 2002 as per notification issued by the Central Government dated 27.12.2002, wherein the liability of the MPSRTC has been categorically defined. He has placed reliance on the judgment passed by the Hon'ble Division Bench in the matter of ***State of Chhattisgarh and Anr. vs. G.K. Gupta and Anr.***, passed in ***WA No. 419 of 2011***.

8. Mr. Harshal Chouhan, Advocate appearing for workmen would submit that notice of demand was served upon CIDC according to the provisions of Section 31 (2) of the Act of 1960. He would contend that due to inadvertence, the workmen mentioned Section 31 (3) in the application moved before the learned Labour Court. He would contend that mentioning incorrect provision of law would not be fatal. He would submit that the learned Labour Court considered the merits of the case and initially dismissed the applications. He would submit that the Industrial Court in appeal allowed the claims of the workmen. It is argued that the workmen worked under CIDC and they got retired from services, therefore, the learned Industrial Court rightly directed CIDC to satisfy the liability. With regard to issue of limitation, Mr. Harshal Chouhan would submit that there is no specific exclusion of provisions of Limitation Act and Section 4 to 24 would apply in the proceedings under CGIR Act. He would submit that CGIR is a benevolent and beneficial statute & in absence of categorical and unequivocal mandate by the legislature it would not be appropriate to reject a claim of an employee on the ground that he did not approach the Labour Court within the time frame. He has placed reliance on the judgment passed in



WPL No. 5110 of 2011 parties being **M. Mohan Rao vs. Managing**

Director and others. It is further contended by Mr. Harshal Chouhan that the learned Industrial Court considered genuine claims of the workmen and directed CIDC to make payment. He would submit that after creation of CIDC liability has been shifted with CIDC according to the provisions of Madhya Pradesh Reorganization Act, 2000 and notification issued by the Central Government dated 27.12.2002. He would submit that these petitions deserve to be dismissed.

9. Mr. Varun Sharma, Advocate appearing for MPSRTC would oppose the submission advanced by Mr. Anoop Majumdar. Mr. Sharma would argue that a clarificatory notification in respect of the assets and liabilities of the employees of the MPSRTC, who have come within the purview of the CIDC, subsequent to the creation of new State was issued on 16.02.2016, which states that all the assets, liabilities, rights and employees received by the Chhattisgarh State due to division of Madhya Pradesh State Road Transport Corporation shall be deemed to be subordinate to CIDC with effect from 13.12.2002 and all employees received from the said disintegrated Corporation shall be deemed to be absorbed in CIDC and CIDC shall be the employer. He would submit that the clarificatory notification would make it clear that any liability received by the State of Chhattisgarh shall be of its employer i.e. CIDC, and therefore, the learned Industrial Court rightly directed CIDC to satisfy it. He has placed reliance on the judgment passed in **WPL No. 3229 of 2007** parties being **CIDC and Anr. vs. Smt. Nirupa Meshram and Ors.** wherein it is held that after 13.02.2002 employees allocated to State of Chhattisgarh would be liability of CIDC.

10. He would contend that though services of workmen were allocated to State



of Chhattisgarh and they got retired from State of Chhattisgarh, but as liability, assets were already bifurcated in the year 2002, therefore, liability would be of CIDC to make payment of arrears of salary or any other claim of the workmen working with CIDC. He would submit that these petitions deserve to be dismissed.

11. I have heard learned counsel for the parties and perused the documents placed on record.
12. Admittedly, the petitioners were employees of MPSRTC. After bifurcation of State of Madhya Pradesh and creation of State of Chhattisgarh, their services were allocated to the State of Chhattisgarh. Their services were taken over by CIDC. Till 31st December, 2002, applications were not moved by workmen before the learned Labour Court claiming therein overtime allowance or night halt allowance. After creation of CIDC, some of the employees/workmen opted for voluntary retirement. First time, notice was served upon CIDC on 07.07.2004, therein claiming, overtime and night halt allowances. Application under Section 31(3) of the Act of 1960 was moved by the workmen in the year 2012. Initially, the applications moved by the workmen were rejected by the learned Labour Court vide order dated 08.04.2013. The workmen preferred separate appeals before the Industrial Court and vide order dated 12.08.2013 those appeals were allowed and applications were remitted back to the Labour Court to decide it afresh. Learned Labour Court dismissed the applications moved by workmen vide order dated 23.01.2016 on the ground of limitation as well as merits. The workmen preferred separate appeals before the Industrial Court and those appeals have been allowed.

Section 31 deals with notice of change and same is reproduced herein-below :-



“Section 31 - Notice of change.

(1) An employer intending to effect any change in respect of an industrial matter specified in Schedule I shall give notice of such intention in the prescribed form and manner to the representative of employees and to such other persons as may be prescribed.

(2) A representative of employees desiring a change in respect of an industrial matter which is neither covered by standing orders nor is specified in Schedule II, shall give notice thereof in the prescribed manner to the employers concerned and to such other persons as may be prescribed.

(3) A representative of employees or an employee desiring a change in respect of an industrial matter specified in Schedule II or any other matter arising out of such change may make an application to Labour Court in such manner as may be prescribed.

*¹[Proviso * * * *]”*

13. Bare reading of the provision of Section 31(2) & (3) would make it clear that a representative of employees desiring a change in respect of an industrial matter specified in Schedule II may move an application before the Labour Court. The applications were moved by the workmen claiming therein overtime and night halt allowance for period from 1995 to 2002.
14. Schedule II of the Act, 1960 describes changes which may be claimed by employer or representative of employees by filing an application before the competent Court.
15. The conjoint reading of Sections 31(2) & (3) and Schedule II of the Act of 1960 would make it clear that application by an individual workman claiming therein overtime or halt allowance would not be competent.
16. Section 61 of the Act of 1960 deals with Powers of Labour Court. The



Labour Court may decide dispute regarding which application has been made under Section 31(3) of the Act or Industrial disputes referred to it under Section 51 or 52, disputes whether a strike, lock-out, stoppage, closure or any change and further may decide a dispute which require any employer to withdraw any change or lock-out.

17. Section 62 of the Act of 1960 states about commencement of proceedings.

Section 62(i) specifically states that any dispute falling under Clause (a) of paragraph (A) of sub-section (1) of Section 61 may be raised within two years from the date of the dispute. It is further provided in this Section that if the dispute is connected with the termination, the dispute may be raised within a year from the date of termination; and where no period of limitation is prescribed within three months of the order of termination. In these batch of cases, the workmen moved applications in the year 2012 before the learned Labour Court under the provisions of Section 31 (3) of Act of 1960, wherein, they claimed arrears of overtime and night halt allowances for period from 1995 – 2002. The learned Labour Court rejected the applications on the ground of limitation as those applications were moved after expiry of limitation prescribed in Section 62 (i) of the Act of 1960.

18. The learned Industrial Court dealt with this issue and held that the employer failed to make payment of allowance to the workmen which gives recurring cause of action, and therefore, the applications moved by workmen before the learned Labour Court were within prescribed period of limitation.

19. The findings recorded by the learned Industrial Court with regard to period of limitation appears to be reasonable as the workmen were not paid arrears of overtime and night halt allowance, which provided them recurring



cause of action. In the matter of **M.R. Gupta v. Union of India**, reported in **(1995) 5 SCC 628**, the Hon'ble Supreme Court held that continuing wrongs like persistent non-payment of dues create fresh cause of action each month. Relevant para 5 and 6 are reproduced herein-below :-

“5. Having heard both sides, we are satisfied that the Tribunal has missed the real point and overlooked the crux of the matter. The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits, he would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action.

6. The Tribunal misdirected itself when it treated the appellant's claim as 'one time action' meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the



*correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See **Thota China Subba Rao and Others vs. Mattapalli Raju and Others**, AIR 1950 Federal Court 1).*

20. The workmen placed on record Ex. P/1 & P/2 issued by the CIDC, Depot Manager, whereby, the employees of CIDC were held entitled to receive overtime and night halt allowances. The claim of the workmen was based on these documents, therefore, the contention made by Mr. Majumdar that the workmen failed to substantiate their right to claim allowances appears to be misconceived and is hereby rejected.

21. Now coming to the issue of liability of CIDC. In the matter of **State of Chhattisgarh and another vs. G.K. Gupta and another** passed in **WA No. 419 of 2011**, the Hon'ble Division Bench while dealing with the almost similar issue with regard to notification dated 27.12.2002 issued by the Central Government held that the liability of CIDC to make payment of Employees Deposit Fund Scheme falls in clause 4 of the notification dated 27.12.2002 as it relates to payment of said amount up to date of dissolution, whereas, other liabilities, such as loan and advances are concerned would fall under clause 2 of the notification. The Hon'ble Division Bench further held that a distinction is made between the liabilities relating to payment of salary and the liabilities other than the salary. The Hon'ble Division Bench modified the order passed in writ petition and held



that State of Chhattisgarh and CIDC would not be liable to incur and pay the interest liability as demanded by the workmen pursuant to the EDF Scheme and instead, MPSRTC was directed to make payment. Relevant para 22 and 24 are reproduced herein-below :-

“22. As stated supra, the liability in question falls in clause 4 because it relates to payment of salary up to the date of dissolution, Whereas so far as other liabilities, such as loan and advances are concerned, it falls in clause 2 of the order/Notification. It is thus clear that a distinction is made between the liabilities relating to payment of salary and the liabilities other than the salary’ Since this case relates to liability pertaining to salary and hence it would be governed by clause 4 and not fall in clause 2. Moreover, as rightly pointed out by the learned counsel for the appellants from the scheme that the entire money after deduction by all division head offices used to be sent to Bhopal head office in M.P. as provided in EDF Scheme and therefore the amount always remained with the MPSRTC at Bhopal in their head office and not at divisional head. It is for all these reasons, both factually and legally, the submission has no force and is accordingly rejected.

24. As a result of the aforesaid discussion, all the appeals succeed and are allowed in part. The impugned common order dated 4th July, 2011 is accordingly modified to the extent by declaring that the appellants i.e ‘State of Chattisgarh’ and ‘CIDC’ are not liable to incur and pay the interest liability as demanded by the writ petitioner pursuant to the EDF Scheme and instead, it is declared and directed that the ‘MPSRTC’ (respondent No.2) is and would continue to be liable to incur and pay the interest liability accrued on the deposit made by the writ petitioner pursuant to the EDF Scheme to the writ petitioner, including all kinds of liabilities arising out of the EDF Scheme.

22. Relevant part of notification dated 27.12.2002 issued by the Central



Government is reproduced herein-below :-

“2) The sharing of current assets (excluding buses and stores) and liabilities including loans, advances, etc. shall be made by arriving at the formula midway between the formulae suggested by Government of Madhya Pradesh and Chhattisgarh, i.e. between 18.82 suggested by Chhattisgarh and 26.49 : 73.51 suggested by Madhya Pradesh.

4) Salary of staff including Voluntary Retirement Scheme till the date of dissolution shall be paid by the existing undivided Corporation.”

23. Mr. Varun Sharma has placed reliance in the matter of **Smt. Nirupa Meshram** (supra) wherein the liability was fastened with the CIDC as liability had emerged after creation of State of Chhattisgarh. Para 9 is reproduced herein-below :-

“9. By implication of the clarificatory notification it has to be presumed that, all the employees who were on the rolls of State of Madhya Pradesh prior to the creation of State of Chhattisgarh and have subsequently by virtue of the litigation or in respect of the nature of dispute came within the purview of the petitioner corporation or within the territory of the State of Chhattisgarh would be deemed to be the employees of the petitioner corporation. From this it should also be presumed that such employees to have retired from the employment of Chhattisgarh Infrastructure Development Corporation.”

24. In the present case, the workmen claimed allowances for period from 1995 to 2002, therefore, it cannot be held that the liability emerged after creation of State of Chhattisgarh, and thus, the facts of the cited case are different from the facts of the present case.



25. Taking into consideration the above-discussed facts and law laid down by the Hon'ble Division Bench, it can safely be held that liability cannot be fastened with CIDC to make payment of overtime and night halt allowances as assessed by the learned Industrial Court in its judgment dated 14.09.2016.

26. The Hon'ble Division Bench in the matter of **G.K. Gupta** (supra) has categorically held that the liability will fall within clause 4 of the notification dated 27.12.2002 and further directed the MPSRTC to make payment of dues to the workmen. Accordingly, these petitions are **allowed**. MPSRTC (now MPRTC) is directed to make payment of arrears of overtime and night halt allowances to the workmen within period of 90 days from the date of receipt of copy of this order.

27. These writ petitions are accordingly **disposed of**.

Sd/-
(**Rakesh Mohan Pandey**)
Judge