IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 21st OF APRIL, 2026

MISC. PETITION No. 2501 of 2026

MUNICIPAL CORPORATION JABALPUR

Versus

CHOTELAL KHURASIYA

Appearance:

Shri Samresh Katare - Advocate for the petitioner.

Shi Rajesh Kumar Pandey- Advocate for respondent -employee.

ORDER

By way of this petition challenge is made to the order dated 31.10.2025 passed by the Presiding Officer, Labour Court thereby rejecting objection of the present petitioner as to maintainability of execution of award of Labour Court.

2. The present petitioner had raised objection as to the execution proceedings on the ground that the limitation to put the award in execution has lapsed and therefore the execution proceedings cannot proceed but the said objection has been rejected by the Labour Court holding that the award remains executable.

3. The necessary facts for the purpose of disposal of present petition are that the present respondent-employee had approached the Labour Court and the Labour Court had passed an award dated 10.01.2002 in proceedings instituted under M.P. Industrial Relations Act, 1960 (for short '**Act of**

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1960'). The Labour Court had directed the present petitioner to classify the respondent as permanent from 28.08.1999 and pay salary and other benefits of permanent post within one month.

4. The aforesaid order was put to challenge in statutory appeal before the Industrial Court of Madhya Pradesh and the Industrial Court passed an order dated 22.1.2003 by modifying the starting point of classification and salary to the date of passing of order by the Labour Court i.e., w.e.f .10.1.2002.

5. The aforesaid order was thereafter challenged by the petitioner in WP 1688/2023 before this Court and the said writ petition was dismissed on 02.09.2014.

6. After dismissal of the writ petition on 2.09.2014, the execution proceedings under Section 108 of Act of 1960 were instituted on 09.08.2022 by the present respondent and after appearing in the said proceedings, the present petitioner raised objection as to delay and limitation that has now been rejected by the Labour Court.

7. The learned counsel for the petitioner has vehemently argued that the impugned order passed by the Labour Court in holding that there would be no limitation to initiate execution is contrary to Rule 48-A of M.P. Industrial Relations Rules, 1961 (hereinafter referred to as '**Rules of 1961**') that carves out limitation of 1 year from the date of order, to put the order in execution. It is argued that the award was passed on 10.01.2002 and it was modified in appeal on 22.01.2003. Therefore, execution ought to have been instituted up to 22.01.2004. Even though in the writ petition the

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respondent-workman was never noticed, but even then if the starting point of limitation is taken to the disposal of writ petition then also the writ petition having been disposed off on 02.09.2014, execution proceedings had to be instituted up to 02.09.2015, but the proceedings have been instituted on 09.08.2022 and therefore these proceedings are clearly barred by law of limitation.

8. The learned counsel for the petitioner has also argued at length to State that the execution proceedings are barred by law of waiver because upon failure of the respondent-workman to put the award to execution for a long number of years, it would be deemed to be waiver to execute the said award.

9. The learned counsel for the petitioner also raised the ground of doctrine of merger and stated that the award of sub-ordinate Court i.e. the Labour Court merged in the award of superior Court, but the doctrine is not of universal or unlimited application. Since the petition is not decided on merits, therefore the doctrine of merger would not apply and the limitation would be reckoned from 22.1.2003 and not from the date of disposal of writ petition, though even from the date of disposal of writ petition, the execution proceedings were instituted 8 years from that date. The limitation is only 1 year.

10. *Per contra*, the learned counsel for the respondent-workman has vehemently countered the aforesaid assertions by stating that the limitation as contained in rule 48- A runs counter to the substantive provisions of Act of 1960 and it is settled in law that the provisions of rules which are

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executive fiat, cannot override the provisions of parliamentary legislation. It is contended that the rules do not actually fill up the lacuna, but are in fact contrary and counter to the provisions of the Act of 1960 and therefore the aforesaid rules could not be pressed into service to hold that the execution is barred by law of limitation.

11. This Court has heard learned counsel for the parties at length and perused the record.

12. Application before the Labour Court is filed seeking substantive relief under Act of 1960 in terms of Section 62 thereof which provides a limitation of 1 year for commencement of substantive proceedings. Section 62 is as under :

> *"62. **Commencement of proceedings**— Proceedings before a Labour Court shall be commenced-*
> *(1) in respect of a dispute falling under clause (a) of paragraph (A) of subsection (1) of Section 61 within two years from the date of the dispute; Provided that—*
>
> > *(a) if the dispute is connected with the termination of the services of an employee, such proceedings shall commence within a year from the date of termination of the services of the concerned employee;*
> > *(b) nothing contained in the foregoing provision shall apply if the concerned employee had made an approach before the 30th day of July, 76 in accordance with the provisions contained in sub-section (3) of section 31 as it stood before the said date and in that case the provisions contained in sub-section (3) of section 31 and clause (1) of this section shall be applicable as they had been before the said date;*
> >
> > *(c) Where an employee has preferred an*

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appeal or representation against an order of termination under any rule, regulation or standing orders to the competent authority within the period prescribed for such appeal or representation or where no such period is prescribed within three months of the order of termination, such proceedings may be commenced within one year from the date of the disposal of the appeal or representation, as the case may be.

(2) in respect of matters specified in clause (c) of paragraph (A) of subsection (1) of section 61, within three months of the commencement of the strike, lockout, stoppage, closure or of the making of the change on an application made by the employer, the representative of employees, any employee directly affected thereby or by Labour Officer;

Provided that the Labour Court may, for sufficient reasons, admit any application for a declaration that a change is illegal under the Act, after the expiry of three months from the date on which such change was made.

13. However, there is no limitation for instituting execution proceedings and the substantive provision for execution in the matter of recovery of amount due under the Act is as under:-

*"108. **Recovery of amount due under the Act**—The amount of any fine imposed, any costs or back wages awarded or any compensation or subsistence allowance directed to be paid by any court under the Act shall be recoverable by the Labour Court in the manner provided for recovery of fine under the Code of Criminal Procedure, 1973 (No. 2 of 1974), as if it were Criminal Court."*

14. The aforesaid provision does not carve out any limitation period to institute proceedings for recovery, but on the contrary it declares that all fines imposed, costs or back wages etc. awarded by the Labour ourt shall be

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recoverable in the manner provided for recovery of fines under Code of Criminal Procedure as if it was a criminal court.

15. Under the scheme of CRPC, there is no limitation prescribed to recover the fine awarded by the criminal court.

16. On the contrary, Rule 48-A is just opposite to what has been provided in Section 108 because Rule 48 not only carves out a limitation but also applies the Code of Civil Procedure for recoveries. Rule 48-A is as under:-

> "**48-A. Execution**.-*(1) Any person in whose favour an award or determination of decision of a Labour Court or the Industrial Court is may apply within one year from the date of order in Form "OO" to the court which made the order for its execution.*
>
> *(2) On such application being made to the labour court or the Industrial Court, the court shall follow the procedure laid down in order xxi vide the Code of Civil Procedure, 1908 (No. V of 1908) for its execution.]"*

17. Rule 48-A therefore, in carving out the limitation and in applying the provisions of CPC to execution runs counter to the provisions of the substantive Act which is impermissible in law.

18. It has been held by the Hon'ble Supreme Court in case of ***Central Bank of India v. Their Workmen, AIR 1960 SC 12*** as under :

> *"20. There are, in our view, clear indications in the section itself that the word "remuneration" has been used in the widest sense. Firstly, clause (b)(iii) also uses the word remuneration. It says-"whose remuneration is, according to normal standards prevailing in banking*

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business, on a scale disproportionate to the resources of the company." Sub-section (2)-unamended-states, inter alia, that if any question arises in any particular case whether the remuneration is according to the normal standards prevailing in banking business on a scale disproportionate to the resources of the company etc., the decision of the Reserve Bank shall be final. It is clear that in clause (b)(iii) of sub- section (1) and also in sub-section (2), the word remuneration has been used in the widest sense. We may invite attention in this connection to rule 5 of the Banking Companies Rules, 1949 (which are statutory rules) which requires a banking company to send periodically to the principal office of the Reserve Bank a statement in Form I showing the remuneration paid during the previous calendar year to officers of the company etc. Form I has a footnote which say: "Remuneration includes salary, house allowance, dearness allowance,. .. bonus. .. fees and allowances to directors etc." ***We do not say that a statutory rule can enlarge the meaning of section 10; if a rule goes beyond what the section contemplates, the rule must yield to the statute. We have, however, pointed out earlier that section 10 itself uses the word "remuneration" in the widest sense, and rule 5 and Form I are to that extent in consonance with the section."***

(Emphasis supplied)

19. The Constitution Bench of the Hon'ble Supreme Court has held that if the rule goes beyond what the section contemplates, then the rule must give way to the statute. In the present case also, the rule is contemplating something which the the substantive provision of Act does not contemplate and therefore, the rule would give way to the statute.

20. Similarly, the Hon'ble Supreme Court had the occasion to consider inconsistencies between the substantive Act and the rules framed thereunder under the Payment of Gratuity, Act 1972 and the Hon'ble

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Supreme Court in the case of **Union Bank of India v. C.G. Ajay Babu, (2018) 9 SCC 529**, held as under:-

> *"19. In the present case, there is no conviction of the respondent for the misconduct which according to the Bank is an offence involving moral turpitude. Hence, there is no justification for the forfeiture of gratuity on the ground stated in the order dated 20-4-2004 that the "misconduct proved against you amounts to acts involving moral turpitude". At the risk of redundancy, we may state that the requirement of the statute is not the proof of misconduct of acts involving moral turpitude but the acts should constitute an offence involving moral turpitude and such offence should be duly established in a court of law.*
>
> *20. That the Act must prevail over the Rules on Payment of Gratuity framed by the employer is also a settled position as per Jaswant Singh Gill [Jaswant Singh Gill v. Bharat Coking Coal Ltd., (2007) 1 SCC 663 : (2007) 1 SCC (L&S) 584] . Therefore, the appellant cannot take recourse to its own Rules, ignoring the Act, for denying gratuity."*

21. Therefore, it is settled in law that if the rule runs counter to the substantive provisions of the parent Act then the rule has to give way to the substantive provisions of the parent Act and it cannot have any independent existence dehors the rights conferred on the parties by the substantive Act.

22. The substantive Act, that is the Act of 1960 declares that the recovery of money shall be executed as if it was a fine imposed by a criminal court under CRPC, for which there is no limitation prescribed for such recovery. On the contrary, the rule applies Code of Civil Procedure to such execution of recoveries and also applies a limitation period which is counter

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to the substantive provisions of the parent Act which does not provide any limitation for execution either in Section 108 or anywhere else in the act. Even the procedure for recovery as per Section 108 shall be as per Section 421 of Cr.P.C. whereas the Rule 48-A provides a totally different mode by adopting Code of Civil Procedure for that purpose. Therefore the Rule 48-A is in direct conflict with Section of the Act.

23. Therefore, it is held that Rule 48-A cannot be pressed into service to hold that there would be a limitation period to institute execution proceedings for enforcement of award under the Act of 1960.

24. In view of the foregoing discussion, this Court does not find any error of law or jurisdiction in the impugned order passed by the Labour Court rejecting the objections of the petitioner as to maintainability of execution proceedings projecting the same to be barred by limitation.

25. The petition, therefore, fails and is **dismissed.**

(VIVEK JAIN)
JUDGE

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