

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9041 of 2025
Date of Decision: 28.9.2026

Khem Singh

.....Petitioner

Versus

HPSEBL

.....Respondent

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Jai Dev Thakur, Advocate.

For the Respondent: Mr. Virender Singh Kanwar, Advocate.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with the award dated 03.08.2023, passed by the Labour Court-cum-Industrial Tribunal Kangra at Dharamshala in Reference No. 196 of 2016 titled as Khem Singh versus The Senior Executive Engineer, Electrical Division, H.P.S.E.B. Limited, Joginder Nagar, District Mandi, H.P., whereby learned Tribunal though found violation of Sections 25G and 25H of the Industrial Disputes Act (in short the "Act"), in the case at hand, but since petitioner had raised demand after a gap of more than 13 years, claim for reinstatement was denied on the ground of delay and laches and compensation to the tune of Rs. 25,000/- was awarded, petitioner workman has approached this Court

in the instant proceedings filed under Article 226 of the Constitution of India, praying therein to set aside aforesaid award inasmuch as learned Tribunal below proceeded to deny the reinstatement.

2. Precisely, the facts of the case, as emerge from the pleadings and other material adduced on record by the respective parties are that on account of dispute inter se petitioner and respondent, following reference was sent by appropriate Government for adjudication to the Labour Court-cum-Industrial Tribunal Kangra at Dharamshala under Section 10(1) of the Industrial Disputes Act:

"Whether alleged termination of services of Shri Khem Singh S/O Shri Tek Chand, R/O Village Badwahan, P.O. Urla, Tehsil Padhar, District Mandi, H.P. w.e.f. 25.03.1999 by the Senior Executive Engineer, Electrical Division, H.P.S.E.B. Limited, Joginder Nagar, District Mandi, H.P., who had worked as beldar on daily wages only for 78 days during year, 1998-99 and has raised his industrial dispute after more than 13 years vide demand notice dated 27.12.2012, without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 78 days during year, 1998-1999 and delay of more than 13 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

3. Petitioner workman claimed that he was engaged as daily waged beldar in respondent Board w.e.f. 25.12.1998 and in the aforesaid capacity, he worked till 24.03.1999, whereafter w.e.f. 25.03.1999, his

services were retrenched/terminated vide letter dated 05.03.1999 on the pretext of lack of work and funds. He also alleged that fresh hands, namely S/Shri Prithi Chand, Subhash Chand, Safi Mohd and Tara Chand etc. were engaged in the year 1999, particularly in the months of June, July and October, whereas no preference was given to the petitioner and his services were terminated without following due process of law.

4. Aforesaid claim raised on behalf of the petitioner came to be resisted by the respondent department on the ground that petitioner was engaged on daily wage basis and had worked only for 78 days till 24.03.1999, whereafter he himself abandoned the work. It also came to be stated at the behest of the respondent department that petitioner workman had worked for less than 240 days in the period of twelve calendar months preceding termination, as such, there was no question of violation of the provisions of the Act and he is not entitled to any relief.

5. On the basis of pleadings as well as evidence adduced on record by both the parties, though learned Tribunal below arrived at a conclusion that there is violation of Sections 25G and 25H of the Act, but since there was a delay of more than 13 years in raising demand, claim of the petitioner for reinstatement came to be denied on the ground of delay and laches, however, having taken note of services rendered by the

petitioner workman, learned Tribunal below proceeded to award compensation to the tune of Rs. 25,000/- payable within a period of four months from the date of receipt of award, failing which interest at the rate of 6% per annum was ordered to be paid by the respondent department. In the aforesaid background, petitioner workman has approached this Court in the instant proceedings.

6. Case of the petitioner is that once on the basis of pleadings as well as evidence adduced on record, learned Labour Court had arrived at a definite conclusion that there was violation of Sections 25G and 25H, it had no option but to order reinstatement, but yet it proceeded to award meagre compensation of Rs. 25,000/-, which otherwise cannot be said to be adequate in any manner. While placing reliance upon judgment passed by Hon'ble Apex Court in case titled **Jeetubha Khansangji Jadeja versus Kutchh District Panchayat**, 2022 SCC OnLine SC 1284, learned counsel representing the petitioner submitted that when termination of a daily wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of principle of last come first go, terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement.

7. To the contrary, Mr. Virender Singh Kanwar, learned counsel representing the respondent Board placed reliance upon recent judgment passed by Hon'ble Apex Court in case titled **State of Uttar Pradesh versus Krishna Murari Sharma**, CA @ Special Leave Petition (C) No. 444 of 2024, wherein Hon'ble Apex Court having taken note of delay of 16 years in seeking reference, proceeded to award lump sum compensation of Rs. 2,50,000/-. While referring to aforesaid judgment, Mr. Kanwar stated that by now it is well settled that if there is a stale claim and no plausible explanation is rendered on record qua inordinate delay in making reference, Labour Court instead of ordering reinstatement can always direct payment of compensation by the respondents.

8. Having heard learned counsel for the parties and perused material available on record vis-a-vis reasoning assigned in the impugned award, this Court finds no illegality and infirmity in the same, as such, no interference is called for as far as denial of reinstatement is concerned. Admittedly, in the case at hand, petitioner raised dispute after 13 years of his illegal termination coupled with the fact that no plausible explanation ever came to be rendered on record qua inordinate delay in making the reference. No doubt, in case titled Jeetubha Khansangji Jadeja (supra), Hon'ble Apex Court held that when termination of a daily wage worker is

found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of principle of last come first go, terminated worker should not be denied reinstatement, but while giving aforesaid ruling, Hon'ble Apex Court also made very relevant observation that aforesaid principle is subject to condition that there are no other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In the case before Hon'ble Apex Court, plea of delay never came to be raised at the behest of respondent, rather in aforesaid case, reference was made well within time, but in the instant case, admittedly, there is inordinate delay of 13 years in making reference. If it is so, learned Tribunal below rightly proceeded to deny reinstatement and directed the respondent Board to pay lump sum compensation.

9. In the case at hand, award laid challenge in the instant proceedings has attained finality qua the respondent Board because it has not laid challenge to the same. Having taken note of the fact that prior to his illegal termination, petitioner had worked for a considerable period, this Court is persuaded to agree with learned counsel representing the petitioner that compensation to the tune of Rs. 25,000/- awarded by learned court below cannot be said to be adequate, as such, same deserves to be enhanced to Rs. 1,00,000/-, as has been done by Hon'ble Apex Court

in **Krishna Murari Sharma** (supra), wherein there was a 16 years delay in seeking reference. Relevant paras of the aforesaid judgment read as under:

“10. Assistant Engineer Rajasthan State Agricultural Marketing Board v. Mohan Lal⁷ was concerned with a limitation of 6 years. Ajaib Singh was held to be not laying (2013) 14 SCC 543 down an absolute proposition of law that where plea of delay is not raised by the employer, there would be no justification for moulding the relief. It was held noticing a series of decisions that the Labour Court considering the aspect of delay, at its discretion could mould the relief, since delay in raising an industrial dispute is definitely a circumstance to be reckoned by the Labour Court; though the Limitation Act, 1963 is not applicable to the references made under the ID Act. In the said case, in lieu of reinstatement, a compensation of Rs.1,00,000/- (Rupees One Lakh) was directed to be paid.

11. Even Shahaji¹ relied on by the respondent-workman accepted the principle that the Labour Court, if finding the termination to be illegal could suitably mould the relief to be granted to the workman in view of the delay. Rajesh Kumar was a case in which the ground of stale claim was not raised before the Labour Court and was first urged before the High Court. As we noticed at the outset, in the present case, the failure of the State, or the conscious decision taken not to challenge the order of reference does not deny the employer-State the right to raise that contention before the Labour Court. Moreover, the same had been raised at the first instance before the Labour Court and this is not a case where for the first time the ground of delay was urged before the High Court or before this Court.

12. Learned Senior Counsel for the State has also fairly submitted that he would not be averse to a lumpsum compensation being paid in lieu of the entire back wages as directed by the employer.

13. Taking the entire circumstances into account, especially the fact that there was a 16 year delay in seeking a reference, we are of the opinion that a lumpsum compensation of Rs.2,50,000/- (Rupees Two Lakhs and fifty thousand) would suffice. The order of the Labour Court as affirmed by the High Court are both set aside to the extent of reinstatement and award of back wages. While upholding the award regarding the illegality of the termination, reckoning the gross delay caused, a lumpsum compensation of Rs.2,50,000/- (Rupees Two Lakhs and fifty thousand) would be paid to the respondent-workman within a period of two months from the date of receipt of certified copy of this order. If the said sum is not paid within the period stipulated, the State shall be liable to pay interest at the rate of 7% per annum from the date of expiry of the two- month period.”

10. Consequently, in view of detailed discussion made hereinabove, this Court finds merit in the petition and accordingly, same is allowed and impugned award dated 03.08.2023 is modified to the extent that petitioner shall be entitled to compensation to the tune of Rs. 1,00,000/- instead of Rs. 25,000/-, which shall be paid by respondent-department within a period of four weeks, failing which petitioner would be entitled to interest at the rate of 6% per annum from the date such amount became due to the petitioner.

11. In the aforesaid terms, present petition is disposed of along with pending applications, if any.

September 28, 2026

(manjit)

**(Sandeep Sharma),
Judge**