

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 14489 of 1995(O&M)

Date of Decision : 28.01.2015

General Manager, Punjab Roadways Amritsar and another
....Petitioners

Versus

Gurdip Singh and another
...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1)Whether reporters of local newspapers may be allowed to see
the judgment?Yes

2) To be referred to the Reporters or not?Yes

3) Whether the judgment should be reported in the Digest?Yes

Present : Mr. Nilesh Bhardwaj, DAG, Punjab for the petitioner
None for the respondent

MAHESH GROVER, J.

The petitioner impugns the award dated 8.11.1994.
Respondent no.2 – workman served a demand notice (Annexure P-1)
alleging that he had worked with the petitioner from 13.8.1982 till 7.7.1983
and thus having completed 240 days. Termination of his services was
therefore illegal as no procedure under Section 25F of the Industrial
Disputes Act was ever followed.

Even though the services were allegedly terminated in 1983 the
demand notice was served on 18.6.1991 i.e after the lapse of 8 years. The
petitioner's stand before Labour Court was that there was no retrenchment
of the petitioner and his services were contractual in nature limited to the
periods of engagements for which the requisite chart was furnished. It was
pleaded that in this period of one year the engagement was periodic with
notional breaks. It was also pleaded by the petitioner that in fact there was
no retrenchment as the workman was engaged subsequent to this period as

well i.e in August 1983 which is after the period of alleged termination and then worked for the following periods which is after the alleged termination thereby falsifying the plea of retrenchment.

1.8.83 to 25.8.83
1.9.83 to 12.9.83
5.5.87 to 29.5.87
3.6.87 to 27.6.87
1.7.87 to 25.7.87
3.8.87 to 27.8.87
1.9.87 to 25.9.87 and
4.4.88 to 28.4.88

On due consideration of the matter, I am of the view that there is substance in what the petitioner states. Firstly the demand notice was served after a lapse of 8 years. Even though it should not be construed to be a fatality to the cause yet the workman is still under an obligation to explain as to what prevented him from raising such a dispute within a reasonable time. Procedure such as termination invite immediate consequences for a workman which cannot be ignored for an inordinately long time as it may not be possible for the management to keep alive an assignment for a workman who seeks redemption of his cause at such a belated stage.

Therefore, in cases where inordinate delay is caused a vested right also accrues to the management to resist the re-entry of a workman.

That apart it was evident before the Labour Court that the services of the petitioner continued to be engaged by the petitioner for as long as almost 5 years after the alleged date of termination and this itself should have been a sufficient reason to hold that there was no retrenchment of services. The demand notice would indicate the date of retrenchment/termination as 7.7.1983 whereas the stand of the respondents clearly demonstrated engagement of the services for the period from 1.8.83 to 25.8.1983 and thereafter for various periods indicated above.

For the aforesaid reasons, I am of the view that the claim of the workman was totally unfounded and the Labour Court has gone wrong in granting the prayer by accepting the reference. The impugned award is therefore set aside. Petition stands accepted.

January 28, 2015
rekha

(MAHESH GROVER)
JUDGE