

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP NO. 1482 OF 2012(O&M)
DECIDED ON : 26.11.2015**

Geeta Chauhan

...Petitioner

versus

Presiding Officer and others

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr. V. B. Aggarwal, Advocate,
for the petitioner.

Mr. Inqulab Nagpal, AAG, Punjab
for respondents No. 2 and 3.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (ORAL)

1. The period of service involved in this case is between 30.01.1995 and 20.02.1996. Management seriously disputes that the workman did not work till 1996 as he rendered service only up to 29.07.1995. Without joining issue with the department the fact remains that whether termination took place in 1995 or in 1996 concededly the petitioner did not raise a dispute regarding termination with the employer till he approached this Court in CWP No. 8850 of 2001 which was dismissed as withdrawn on 17.07.2003. The Division Bench of this Court granted liberty

to the petitioner to approach the industrial Tribunal in accordance with law being an alternative remedy. The petitioner again waited for a sufficiently long time to approach the industrial Tribunal. In April, 2005, the dispute was referred by the appropriate government to the Labour Court, U.T. Chandigarh, in ITR No. 17 of 2006 for adjudication of the dispute as to the legality and validity of retrenchment.

2. It may be noticed that the petitioner was appointed as a Clerk to work in the Jawahar Rojgar Yojana Unnat Gram Scheme on 89 days' basis. He complained that the provisions of Section 25-G were violated in as much as thirteen similarly situated persons were granted re-employment by the government vide order dated 31.05.1996 issued by the Secretary, Govt. of Punjab, Rural Development and Panchayat Department vide Annexure P-4. There is no doubt that the scheme where the petitioner was engaged to work was abolished on 20.07.1996. So, the question of re-instatement does not arise. The thirteen candidates appear to have been appointed on 31.05.1996 (Annexure P-4). Of them there are 7 women Clerks and 2 women Sewadars in the total list of 19 selected persons, who were re-instated and appointed to the head office to work in the directorate or in the field offices. The Labour Court has drawn a distinction in the case of the petitioner and the other re-employed workmen inasmuch as the petitioner did not work up to 20.02.1996 but worked up to 29.07.1995. Even assuming that the Labour Court is incorrect in its finding and the petitioner continued to work until 20.02.1996, even then, it is not legally possible to mould the relief in his favour to give him compensation in lieu of reinstatement for only a year of

service in a scheme which is defunct. Monetary relief is not justified in a closure situation coupled with considerable laches on the part of petitioner to cast a financial burden on the State for no rhyme or reason. Even assuming that there was non-compliance of rules in the ID Act on the assumption that petitioner had put in 240 days of service in the 12 calendar months preceding the date of termination, even then, the relief would not be justified or flow automatically in this case for the reasons that the activity has closed down and rights claimed under section 25-G of the Act though may have been available to the workman, but have been lost in the mists of delay and laches which defeats equity to revive stale claims although action suffer no limitations in ID Act. However, delay and laches has been considered valid factor to deny relief altogether and for this, reference may be made to the decisions of the Supreme Court in cases; “**Haryana State Coop. Land Development Bank Ltd v. Neelam, (2005) 5 SCC 91; Karnataka Power Corporation Ltd. v. K. Thangappan, (2006) 4 SCC 322; Dharappa v. Bijapur Coop. Milk Producers Societies Union Ltd. (2007) 9 SCC 109; State of Punjab v. Anil Kumar, (2007) 9 SCC 663**”.

3. In the present case, the dispute is regarding public posts which are to be filled only for justified reasons in accordance with rules of service without infringing constitutional mandates. The post of Clerks and Sewadars are governed by the rules of service. The petitioner did not make his disengagement a grievance from 1995-96 till 2001 when he filed writ petition and it was dismissed as withdrawn in 2003. He waited another two years to raise an industrial dispute in 2005, upon which the impugned

Award dated 01.04.2011 has come. The Labour Court has concluded that negligence on the part of workman in pursuing his remedies has deprived him of his right of re-employment under the provisions of law. The delay in approaching the court has also been considered a negating factor of grant of relief by the Supreme Court in “**Nedungadi Bank Limited vs K.P. Madhavankuty and others, (2002) 2 SCC 455**”.

4. This Court finds no infirmity, perversity or irrationality in the conclusion reached by the Labour Court in exercise of its jurisdiction and judicial discretion after appreciating the evidence on record and hence the award does not suffer from any fundamental flaw of law or fact which may tend to vitiate the proceedings and the award. Besides, the award does not suffer from any error apparent on the face of the record.

5. For these reasons, I do not find any valid reason to interfere with the award in writ jurisdiction and would dismiss the petition, however, without any order as to costs.

NOVEMBER 26, 2015
shalini

(RAJIV NARAIN RAINA)
JUDGE