

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

**CWP No.18435 of 2012**

**Date of decision: 17.11.2015**

Ramesh Kumar

... Petitioner

Versus

Presiding Officer, Central Govt. Industrial  
Tribunal-cum-Labour Court-II, Chandigarh & anr.

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Ms. Sonia G. Singh, Advocate,  
for the petitioner.

Mr. Namit Kumar, Advocate,  
for respondent No.2.

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. It would appear to be stretching the law to breaking point if the rights of the workman under Section 25-H of the Industrial Disputes Act, 1947 (for short 'the Act') should be activated in a case of a seasonal part-time worker who was engaged in the Postal Department as a Waterman, who last served from April 1, 1987 to October 15, 1987 and raised a dispute by serving a demand notice on the respondent-Postal Department in the year 1997 after 10 years of his ouster. The period of service prior to 1997 was on similar pattern as was in the last relevant tenure. The Labour Court has understood this arrangement as a case falling under the exception in sub section (bb) of Section 2(oo) of the ID Act resulting for non-renewal of contract of employment.

Be that as it may, delay and laches in raising an industrial

dispute is an important circumstance which has to be kept in view by the Labour Court at the time of exercise of discretion in granting relief irrespective of whether or not such objection has been raised by the other side. This is a view expressed by the Supreme Court in **Assistant Engineer, Rajasthan State Agri. Marketing Board, Sub Division, Kota v. Mohan Lal**, 2013(14) SCC 543 : 2014(1) RSJ 398. In the present case, the Postal Department took the objection of delay and laches although limitations do not apply to the provisions of Section 10 of the Act and is not a bar in referring disputes for adjudication and delay can be viewed as relevant in moulding the relief suitable to the facts of the case.

2. Be that as it may, although there was considerable delay in raising the dispute but granting relief by way of moulding it cannot be discarded altogether and the Labour Court would still have to address itself whether compensation in lieu of reinstatement would serve the ends of justice where reinstatement is to be denied for good and sufficient reason. This exercise has not been done by the Labour Court, which has dismissed the reference and denied relief altogether. Mr. Namit Kumar does not dispute that though the work was seasonal and for short duration but such an arrangement continued for some time even prior to August 19, 1997 though there is no definite and clear evidence on record of past service.

3. It is the sole contention of Ms. Sonia G. Singh that her client must receive the benefit of the provisions of Section 25-H of the Act since during the intervening period the Postal Department has employed a

Waterman in place of the petitioner to do the same job at the same place after his forced departure.

4. To activate Section 25-H of the ID Act, the principle of 240 days is inapplicable. In order to prevent breach of Section 25-H of the Act, this Court deem it fit and appropriate to order the respondent-Postal Department to pay compensation to the petitioner in a sum of Rs.1.00 lac as was the dispensation in *Mohan Lal's case (supra)*. This appears to be the just and reasonable relief which the petitioner should take for 7 years of litigation and not without sufficient cause by keeping in mind the enormous delay in raising a dispute and approaching the appropriate government for reference but still the figure of Rs.1.00 lac is found moderate and suitable to put an end to the dispute and to serve the ends of justice. Consequently, this petition is partially allowed. The award is upheld in that it denies reinstatement but is modified and compensation of Rs.1.00 lac in lieu of reinstatement is held admissible in lieu of reinstatement. The amount be paid to the petitioner within 3 months from the date of receipt of certified copy of this order, failing which it will carry 18% interest till realization as a salutary measure in the enforcement of the modified award.

**(RAJIV NARAIN RAINA)**  
**JUDGE**

**17.11.2015**  
**monika**