

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

**CWP No.14038 of 2015
Date of decision: 31.07.2015**

Naval Singh

... Petitioner

Vs.

Presiding Officer , Industrial Tribunal-cum-Labour Court, Circle-I,
Faridabad and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. G.C.Shahpuri, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Challenge in the present writ petition is to the Award dated 10.03.2015, Annexure P-6, whereby, the reference of the petitioner has been declined on the ground of delay, as the claimant has failed to give explanation of 05 years delay in raising the industrial dispute.

Mr. G.C.Shahpuri, learned counsel appearing on behalf of the petitioner submits that the Labour Court has committed illegality and perversity in declining the reference, as the law of limitation under Article 137 of the Limitation Act, is not applicable. In support of his contention, relied upon the judgment of Hon'ble the Supreme

Court in Ajaib Singh vs. The Sirhind Co-op. Marketing-cum-Processing Service Society Ltd. **1999(2) S.C.T. 667**. He further submits that the retrenchment compensation cannot be treated to be a simple order of retrenchment and in support of aforementioned, relied upon the judgment of Hon'ble the Supreme Court in Nar Singh Pal vs. Union of India **2002 (2) S.C.T. 523**.

I have heard learned counsel for the petitioner and appraised the paper book.

It is conceded position on record that in the demand notice, the workman could not give any explanation, much less, failed to place on record any evidence before the Labour Court with regard to alleged illness.

It is a matter of record that the workman had received retrenchment compensation reserving his right to challenge the retrenchment notice and raised the demand after a lapse of 05 years.

No doubt, provisions of Article 137 of the Limitation Act does not apply but the *ratio decidendi* culled out in the judgment of Ajaib Singh's case (supra) dealt with matter, wherein, High Court dismissed the claim of the workman on the ground of delay despite the fact no issue was framed by the Tribunal. However, in the instant case, issue no.3 qua maintainability was framed, which would envisage the ground of limitation as well.

I would have been convinced had the workman given any explanation, in the claim statement or demand notice. However, with

regard to the factum of his period of ailment. No medical record before the labour Court had been placed or proved, nor any averment was made in the claim statement or demand notice that he was not gainfully employed during the period he remained out of job. The contention that Management had not taken the objection with regard to limitation would not be sustainable, as issue No.3 had been pressed at the instance of the Management and the parties were alive to the situation. Since the workman has not given any explanation to raise the demand notice after a gap of 5 years, nor there is any evidence of averment that workman was gainfully employed during the period he remained out of job, the Labour Court was right in deciding the reference on merits by dismissing the same.

In view of what has been observed above, there is no merit in the writ petition, accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

July 31, 2015
savita