

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

CWP No.18645 of 2015

Date of Decision: 4.09.2015

Jagtar Singh

... Petitioner

Versus

Presiding Officer, Industrial Tribunal
Patialal & ors.

... Respondents

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

Present: Mr. Gourav Goel, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J.(Oral)

The impugned award was passed on January 6, 2010 by the Presiding Officer, Labour Court, Patiala in Reference No.725 of 1999. The present writ has been filed on August 31, 2015 challenging the impugned award. The explanation for delay is that a complaint had been filed against counsel Mr. 'X' at Patiala in the Punjab and Haryana Bar Council, Chandigarh, for misconduct committed by accepting the brief, charging professional fee, obtaining signatures on court papers and the Vakalatnama, but failing to file the writ petition against the award. The story made out in the complaint is that after the workman paid fees settled the petitioner remained sanguine that all would be well he had been reassured by the counsel telephonically that his case has been filed and on hearing stands admitted and the same would be listed after 4-5 years for final hearing. There was no further contact between them. It was only in “July 2015” that the petitioner approached his counsel and asked of him

the status of his case but he did not receive a satisfactory response. No details were furnished to him of the case which made visit the official website of the High Court which did not support the assurance since it did not show up any record of the case filed by his name. With the information gathered, he went back to the counsel at Patiala, who then informed him that he had entrusted the case to some other counsel to pursue. This is the drift of the complaint made by the petitioner on August 8, 2015 to the Bar Council. But the name of the new counsel remains a mystery in the complaint. This is difficult to believe.

This court is of opinion that the clumsy explanation is inadequate and can be read only with a grain of salt. It is not a story which inspires trust and confidence and is rather unlikely to be true. It is insufficient to explain the long length of delay in presenting this case enough to cover 4/5 years of somnolence. I would therefore not think it prudent to entertain the plea because litigants are also expected to do *pairvi* of their cases and cannot easily pass on the buck on the counsel howsoever negligent he may have been when the party was deficient in pursuit of relief. Therefore, I would commend the dismissal of this petition on the ground of delay and laches in approaching court.

However, while I say so I would not express any opinion on the merits of the complaint which would be decided by the Bar Council, if it thinks fit to process, without being influenced by anything said in this order because there has been no occasion to examine the merits of the case once having reached a conclusion on the preliminary point on account of the petition being barred by time. Unless fundamental rights

are involved, ordinarily parties are expected to approach the judicial review court within reasonable time. The period of 5½ years is not reasonable time especially when the management must have settled down to the position that it will not be visited with litigation arising from the award. The management cannot be woken up after a period of more than 5 years to face litigation as that would not send a good message from this Court.

For the reasons recorded above, the petition is dismissed for lack of maintainability due to long passage of time in invoking the discretionary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India.

However, before parting with the order, it is deemed appropriate that a direction deserves to be issued to the Labour Inspector, Patiala, to initiate action against the respondent management in case the amount of Rs.20,000/- awarded by the Labour Court, Patiala, is not implemented within reasonable time and money paid to the petitioner, if not disbursed already. It will be for the petitioner to furnish a certified copy of this order to the area Labour Inspector, Patiala to take necessary steps in this behalf in accordance with law.

(RAJIV NARAIN RAINA)
JUDGE

4.09.2015
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