

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23027 of 2015

Date of Decision: 30.10.2015

Gurpreet Singh

... Petitioner

Versus

The Chairman, Punjab School Education
Board, Mohali and others

... Respondents

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

Present: Mr. Barjesh Kumar Sharma, 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.

1. The petitioner served in the Punjab School Education Board as a Helper from November 13, 1996 to October 31, 1997. The workman complained that his services were terminated abruptly without any notice, charge-sheet, inquiry or compensation. The petitioner was appointed for the brief period by the Board to meet the exigencies of additional workload for specific time and purpose. His services were not extended beyond October 31, 1997 and the Presiding Officer, Industrial Tribunal, Bathinda in the impugned award dated October 29, 2013 [assailed after two years in the present petition] held that the case falls in exception (bb) of section 2 (oo) and as such the mandatory pre-requisites in section 25-F of the Industrial Disputes Act, 1947 ("the Act") were not attracted. The management led no evidence and its evidence was closed by order dated October 03, 2011. It is

contended that since management has failed to prove the order of termination of services of the workman is legal and valid then the stand of the workman should be accepted as true and correct and the impugned award set aside and relief of reinstatement with continuity of service and back wages be awarded to him.

2. In raising this argument, the learned counsel forgets that the burden is on the claimant to discharge by producing evidence to show that the termination was illegal and invalid. This onus on the claimant workman had not been able to be discharged successfully by him. In any case, against disengagement on October 31, 1997 the workman slept over his rights and agitated them only when Ref. No.48 of 2008 was made to the Labour Court by the appropriate Government in the year 2008, i.e., after 11 years of delay and laches in raising a stale claim as a dispute with the Board. The period has not been explained nor any sufficient cause shown. Raising a dispute belatedly and beyond reasonable time is a factor which can dissuade this Court from interfering in the matter. It is not possible to reinstate the petitioner to service after 18 years having gone by and the Labour Court has committed no error in denying reinstatement and compensating the petitioner by a sum of Rs.30,000/- as compensation in lieu of reinstatement.

3. The moot question is that when the Labour Court has veered the case in the direction of section 2(oo) (bb) of the Act and if that is correct assessment of the evidence and the law then the disengagement was due to non-renewal of the contract of employment and if that is so then no industrial rights can be attributed to have accrued in favour of the workman and even compensation granted by the Labour Court is technically open to

serious doubt. However, in the interest of justice the compensation part is left untouched and the writ petition is dismissed as being without substance. The cases relied upon to claim parity are awards of the Labour Court which have no precedential value as the labour court is not a court of record. It is a court of fact. Its findings on facts are normally not open to interference in writ jurisdiction which is not appellate. The award does not suffer from an error apparent on the face of the record nor any fundamental flaw which might vitiate the proceedings leading to the award.

(RAJIV NARAIN RAINA)
JUDGE

30.10.2015
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