

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2329 of 2015

Date of Decision: 17.11.2015

Sunil Kumar

... Petitioner

Versus

Presiding Officer, Industrial Tribunal
Cum Labour Court, Rohtak and another

... Respondents

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

Present: Dr. Suresh Kumar Redhu, 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. This writ petition has been filed against an order passed by the Presiding Officer, Labour Court, Rohtak on March 14, 2012 refusing to restore Ref. No.41 of 2007 against an ex parte award dated March 21, 2009 declining the reference on the ground that despite several attempts to serve the workman at the address mentioned in the demand notice the workman failed to appear before the Labour Court and when the matter was fixed for conciliation before the Lok Adalat on the date fixed and all previous efforts to serve the workman had failed. Therefore, the Labour Court is not incorrect in assuming that either the party is not interested in pursuing the matter or the matter stands settled outside Court and industrial dispute no longer exists. Even assuming that the Labour Court ought to have posted the matter back on the regular Board on failure of the workman to appear at the

special Lok Adalat even then he is unable to explain in this petition as to why he moved the application for restoration of the case on March 16, 2010 after more than one month of the publication of the award as to why this petition was filed belatedly on January 29, 2015 with objections against the order dated March 14, 2012.

2. The respondent is the Forest Department, Haryana. The last post worked on by the petitioner was of a Mali-cum-Chowkidar/Night Chowkidar at Nehru College Nursery at Jhajjar. According to the petitioner he had put in five years and ten months of service before he was asked to go. The approach to this Court two months short of expiry of three years is viewed as one suffering from inordinate delay and laches and thus this is not a fit case to interfere after a decade of the exit of the workman.

3. Reliance placed by Dr. Redhu on the decisions of the Supreme Court in **Grindlays Bank Ltd. vs. The Central Government Industrial Tribunal and others**, AIR 1981 SC 606 and **Anil Sood vs. Presiding Officer, Labour Court-II**, (2001) 10 SCC 534 is inapposite when applied to the facts of the present case. There is no doubt that an ex parte award can be set aside and the Tribunals have jurisdiction to do so but the dispensation also has to be tempered with sufficient explanation of delay and further culpable delay in approaching this Court against the ex parte award coupled with the delay in approaching Court against the impugned order rejecting the application for restoration of the case, which application has been declined after both the parties were heard to press and to contest the application. The law of procedure and of substance does not usually shower praise on the lethargical attitude of litigants who 'easy come, easy go' and

one fine day wake up to say that great misfortune and injustice has befallen on them and there are no prescribed limitations in the ID Act for seeking relief. That is a misunderstanding of labour laws. More so when interfacing with government departments governed by rules of recruitment and obligations to fill up vacant posts in accordance with law.

4. The petition has no merit and is ordered to stand dismissed as the impugned order does not suffer any fundamental flaw or error apparent on the face of the record. It is not for this Court to substitute its opinion for the one taken by the court *a quo* as though it were sitting in appeal.

(RAJIV NARAIN RAINA)
JUDGE

17.11.2015
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