

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 3484 of 2015 (O&M)

Date of Decision: 26.02.2015.

Sham Chand

--Petitioner

Versus

Presiding Officer & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Manish Dadwal, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

The instant writ petition is directed against the award dated 5.12.2014, passed by the Industrial Tribunal, Bathinda, whereby the reference has been answered against the petitioner-workman and he has not been held entitled to any relief.

Learned counsel appearing for the petitioner would submit that the workman had served as a Beldar for a period of almost 7 years i.e. 11.8.1984 till 31.12.1991 and his services were dispensed with without issuance of any notice or payment of wages in lieu of notice period or retrenchment compensation and as such, there had been a clear violation of Section 25-F of the Industrial Disputes Act. It is further argued that after dispensing with the services of the petitioner the management had re-engaged certain other employees and without making any offer to the petitioner and as such, there was a violation even as regards Section 25-H of the Act. Further argument raised is that there is no limitation prescribed under the Industrial Disputes Act with regard to raising an industrial dispute and as such, it was incumbent and imperative for the Labour Court to have gone into the merits of the claim raised by the petitioner. Counsel would

even refer to the documents appended at Annexures P-2 to P-4 along with the instant writ petition to contend that an application had been moved by the workman before the Industrial Tribunal for production of relevant record for the period in question and upon directions having been issued, the requisite record had been produced which would clearly reflect that the petitioner-workman had served for a period in excess of 240 days in the preceding 12 months taken from the date of alleged termination i.e. 31.12.1991.

Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that no basis for interference is made out and the writ petition merits dismissal.

It has not been disputed that after the services of the petitioner having been dispensed with allegedly on 31.12.1991, the workman had raised an industrial dispute only by virtue of having served a demand notice dated 14.8.2013 i.e. after a delay of more than 20 years. Even though, the demand notice has not been placed on record, yet, counsel would very fairly state that in such demand notice no explanation whatsoever had been furnished by the workman to justify such an inordinate delay. It also stands conceded that in the reply furnished on behalf of the management before the Industrial Tribunal, a preliminary objection as regards claim of the petitioner-workman being belated, had been raised. Even during the course of arguments today, no explanation is forthcoming with regard to the workman having raised the industrial dispute after such a long delay of more than 20 years.

Even though, there is no period of limitation prescribed under the Industrial Disputes Act as regards raising of an industrial dispute but it is equally well settled that belated and stale claims cannot be set up. In case of **Nedungadi Bank Ltd. Vs. K.P.Madhavankutty and others 2000 (1) S.C.T. 1088** as also in case of **S.M. Nilajkar and others Vs. Telecom District Manager, Karnataka, 2003 (2) S.C.T. 1013** the Hon'ble Supreme Court had held that even though there is no limitation prescribed for reference of a dispute to an Industrial Tribunal, still, it is only reasonable that disputes be referred as soon as possible after they have arisen and upon conciliation proceedings having failed and more so particularly when the issue pertains to discharge of workman from service. The Hon'ble Apex Court had held that a delay of 4 years in raising the dispute even after re-employment of most of the old workmen was fatal. In **Nedungadi Bank's** case (supra) the Hon'ble Apex Court had held a delay of 7 years to be fatal thereby dis-entitling the workman to any relief.

Adverting back to the facts of the present case, wherein it has gone uncontroverted that a demand notice was served by the workman petitioner only on 14.8.2013 against the backdrop of an alleged termination relating back to 31.12.1991, this Court does not find any infirmity in the impugned award, whereby the workman has been non-suited on the ground of setting up a belated and stale claim.

For the reasons recorded above, the present writ petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

February 26, 2015.
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