

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

I.

Civil Writ Petition No.463 of 2015

Date of decision: 13.1.2015

Sukhcharan Singh

..... Petitioner

Versus

The Ld. Presiding Officer and others

..... Respondents

II.

Civil Writ Petition No.472 of 2015

Date of decision: 13.1.2015

Malkiat Singh

..... Petitioner

Versus

The Ld. Presiding Officer and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.S.K.Chawla, 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.

This order will dispose of two above mentioned writ petitions as common question of law and fact is involved in both the petitions. The facts are taken from CWP No.463 of 2015 for convenience and the parties would be referred by their status in this petition.

2. The Presiding Officer, Labour Court, Bathinda has rejected the reference by award dated 11th July, 2014 and upheld the order of dismissal

passed by the Municipal Council, Jaitu, District Bathinda. His claim for reinstatement and consequential benefits has been turned down. The Labour Court framed 7 issues and proceeded to decide them on the basis of oral and documentary evidence led by both the parties.

3. The facts in brief are that the petitioner was appointed as a Clerk on contract basis for 6 months on 11th December, 2000. He worked upto 30th November, 2001. He challenged his non-employment in a civil suit which went up in appeal. However, Government of Punjab decided to abolish octroi with effect from 1st December, 2001. It was the case of the Municipal Council that the reference was barred by limitation as well as the principles of *res judicata*. The petitioner had failed before the Civil Court and the appeal preferred by him stands dismissed and the mere fact that he completed 240 days in the last calendar year is of no avail to the workman as he was employed purely on contract basis for octroi collection which activity was abolished by the Government of Punjab. On abolishing the system of collection of octroi, the services of the petitioner came to an end automatically and no new appointment was made in place of the petitioner after he was relieved from service. The judgment and decree dated 18th March, 2008 was exhibited on the record as W19.

4. The argument raised before this Court is that the Civil Court had no jurisdiction to entertain an industrial dispute and, therefore, the decision is not binding so far as industrial rights are concerned. It was also the case of the respondent that the termination order was passed on 30th November, 2001 but the demand notice was issued on 19th October, 2012, i.e., after almost 10 years. It was correctly argued by the workman that the provisions of Section 137 of the Limitation Act, 1963 are not applicable to

the proceedings under the I.D. Act and relief could not be denied on bar of limitation. However, the delay in approaching the industrial adjudicator is a factor for the Court in declining relief as held in **Nedungadi Bank Limited v. K.P.Madhavankutty and others**; 2000 (2) SCC 455. A question of delay and laches is a factor for the Court to consider in proceedings under the Industrial Disputes Act.

5. Having heard the learned counsel for the petitioner, I would decline relief for two reasons; one, that the period of services is far too short in the present case and mere completion of 240 days would not automatically entitle a workman to reinstatement and back wages and the second reason why this Court would not interfere is that the purpose for which the petitioner was appointed to serve as a Clerk for collection of octroi no longer subsisted after the octroi was abolished on 1st December, 2001. If there were persons who were in the same predicament and were re-deployed in other Urban Local bodies, that right is clouded by distance and after 14 years it will not be possible to grant relief to the petitioner and to create administrative inconvenience and chaos since the post of Clerk is a municipal post. The respondents have settled into a position by waiver of right by the petitioner to enforce proper remedy in a Court of law. In any case, the petitioner took recourse to law in a civil suit and lost. His appeal was rejected. It is too late to grant relief in this case.

6. Accordingly, both the petitions stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

January 13, 2015
Paritosh Kumar