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

CWP No.6172 of 2016

Date of decision: April 01, 2016

Dyallo

.....Petitioner

Versus

The Presiding Officer and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of Mandamus for modification of the award dated 29.12.2010 (Annexure P-3).

Petitioner had raised an Industrial dispute challenging her termination by serving a demand notice. The dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal-cum-Labour Court, Panipat by the appropriate Government. The Industrial-Tribunal-cum-Labour Court vide award dated 29.12.2010 answered the reference in favour of the petitioner and held that she was entitled to reinstatement with continuity of service and 50% back-wages from the date of demand notice, i.e. 03.12.2002.

Learned counsel for the petitioner has submitted that the petitioner had now grown old and it was not possible for her to join her duties and the award passed by the

Industrial Tribunal-cum-Labour Court was liable to be modified to the extent that the petitioner was liable to be granted compensation in lieu of reinstatement. The award was passed in December 2010, but so far, petitioner has not been reinstated in service and execution petition filed by the petitioner was pending.

In the present case, the Industrial Tribunal-cum-Labour Court vide the impugned award had held that the services of the petitioner had been illegally terminated and the reference was answered in favour of the petitioner and she was held entitled for reinstatement with continuity of service and 50% back-wages from the date of demand notice, i.e. 03.12.2002. As per the case of the petitioner, she had worked as a Sweeper with the respondent-Management from 30.05.1989 upto 31.03.2000.

Respondent-Management had filed CWP No.11043 of 2012 challenging the award and the said writ petition was dismissed by this Court vide order dated 02.11.2015 (Annexure P-6). Petitioner was duly represented by her counsel in the said petition. However, the petitioner has waited for more than five years before filing the present writ petition.

In Para 7 of the writ petition, petitioner has averred that she could not file the writ petition earlier for the following reasons:-

“i) The petitioner is an indigent lady approximately 55 years old.

- ii) She is illiterate.*
- iii) She is suffering from old age deceases and she is also heart patient.*
- iv) Her execution petition of the impugned award is still pending.*
- v) She is doing house hold work in the locality.*
- vi) No male member in the family for taking her care.*
- Vii) She did not have the sufficient knowledge and means to seek to further legal remedy."*

The reasons given by the petitioner explaining the delay in filing the writ petition fail to inspire confidence as the petitioner was duly pursuing the writ petition filed by the Management against the award in question. Thus, in the present case, the writ petition is liable to be dismissed on the ground of delay and laches. Moreover, the petitioner has already been granted the relief of reinstatement with continuity of service and 50% back-wages from the date of service of demand notice. Apparently the said relief was granted by the Industrial Tribunal-cum-Labour Court keeping in view the facts and circumstances of the case.

No ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India, is made out.

Dismissed.

**(SABINA)
JUDGE**

April 01, 2016
mahavir