

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16118-1998

Date of Decision:-09.10.2017.

Hari Singh

.....Petitioner

Versus

Presiding Officer, Labour Court, Patiala and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Parveen Kumar, Advocate for the petitioner.

Mr. Balbir Singh Sewak, Additional A.G. Punjab.

P.B. BAJANTHRI, J. (Oral)

Petitioner has challenged the award passed by the Labour Court dated 1.6.1998 (Annexure P-4).

2.) Petitioner was appointed on daily wage basis as a Chowkidar on 14.9.1983 in the respondent-Department. His services were terminated on 12.9.1985 without following provisions of the Industrial Disputes Act, 1947. Thus, the petitioner raised an industrial dispute. State Government issued a reference No.118 of 1988. During pendency of reference before the Labour Court, petitioner's representative withdrew the reference due to some technical error. Accordingly, he was permitted to withdraw reserving liberty to have a fresh reference. Fresh reference was obtained in the year 1996 based on the application dated 29.11.1994. Labour Court proceeded to pass award in favour of the management only on the ground of delay on

the part of the petitioner. Hence, the present petition.

3.) Learned counsel for the petitioner submitted that while withdrawing the earlier reference No.118/1988 on 27.2.1992, liberty was sought and it was granted. There is some delay between 1992 to 1994, therefore, rejection of the Reference No.195/1996 by the Labour Court on the score of delay is arbitrary and illegal. Labour Court admitted that petitioner's termination is contrary to provisions of the Industrial Disputes Act, 1947. Hence, the Labour Court erred in holding that on the ground of delay, Reference No.195 of 1996 is maintainable.

4.) Per contra, learned counsel for the respondents submitted that there is a delay of nearly 3 years in obtaining second reference, therefore, rightly, the Labour Court in para 9 declined to interfere with reference. Thus, no interference is called for.

5.) Heard learned counsel for the parties.

6.) The Labour Court no doubt appreciated the delay in obtaining reference No.195 of 1996 to the extent that there is a delay of 3 years. At the same time, it was not noticed that petitioner was diligent in approaching the Court as is evident from earlier reference No.118/1988 which was withdrawn on 27.2.1992 due to technical error and further opportunity was sought and the same was granted. In view of these facts and circumstances, petitioner may not be entitled to reinstatement with continuity of service and back wages since he is out of service from 12.9.1985. Whereas he is entitled to compensation. Hence, Labour Court award is modified to the extent that petitioner is entitled to compensation of ₹ 1,00,000/- on the score that he had served respondents for about 2 years and termination is contrary to

directed to pay the compensation within a period of six months from today.

7.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

October 09, 2017.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.