

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4487 of 1996(O&M)

Date of Decision: 1.05.2017

Ram Kumar

... Petitioner

Versus

The Presiding Officer, Labour Court, Ludhiana & anr.

... Respondents

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

Present: Mr. NK Nagar, Advocate,
for the petitioner.

None for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

This petition has lived out its life by sheer passage of time with the workman being unsuccessful in the Labour Court against a termination from service which took place on August 16, 1988 which action lies in the remote virtually incapable of yielding any fruit to the petitioner in this litigation 29 years after the event. The finding of the Labour Court is that the workman abandoned the job of his own. That may have been the result of the injuries suffered on his fingers of the right hand and left hand, which were accidentally chopped off while working and the workman thereby rendered incapable of running the machine for which he was engaged.

Learned counsel for the petitioner says that before approaching the Labour Court, the petitioner had filed an application claiming compensation against the respondent management under the Workmen's Compensation Act, 1923 (presently Employees' Compensation Act, 1923) but remained unsuccessful with the Commissioner refusing to grant relief.

Those facts are not on record in their details and therefore, nothing can be said regarding amputation of fingers suffered on April 2, 1987 and then again on March 17, 1988 as orally asserted at the Bar. The finding

of the Labour Court on abandonment may not be wholly sustainable since the demand notice was served in close proximity to the termination. However, that is not sufficient ground to consider reinstatement due to physical incapacity and long passage of irretrievable time. The Labour Court noticed the provisions of Section 2(oo) (c) which made an exception to termination on the ground of continued ill health, then it would not amount to retrenchment. If it did not amount to retrenchment then provisions of Section 25F of the Industrial Disputes Act, 1947, need not be complied with.

Looking to the totality of facts and circumstances, this case does not appear to be one calling for interference. The petition is, therefore, dismissed.

1.05.2017
monika

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>