

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5283 of 1996 (O&M)
Date of Decision:-17.08.2017.

M/s Harnam Singh Sibbal and Sons

.....Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Jalandhar and another

.....Respondents

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

Present: Mr. Prateek Mahajan, Advocate for the petitioner.

None for respondent No.2-Workman.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the validity of the award passed by the Labour Court dated 25.10.1995 (Annexure P-7).

Respondent-workman was stated to have been appointed as a Technical Engineer on 01.01.1974 and worked up to 31.08.1976. The petitioner is disputing the date of entry as well as date of termination stating that respondent-workman joined service in the month of April, 1975 and his services were terminated in the month of March, 1976. The respondent-workman submitted application for arrears of wages during the period from 01.03.1976 to 31.08.1976 also claiming notice of pay wages for 3 months along with bonus & interest. Respondent's application was entertained by

the Labour Court and proceeded to award ₹ 19,485/- and interest of ₹ 9,742/- thereon @ 12% per annum for a period of 5 years from 02.08.1990 which would be ₹ 29,227/-. It was rounded to ₹ 29,000/-. Petitioner aggrieved by the award dated 25.10.1995 presented the present petition.

Learned counsel for the petitioner submitted that respondent-workman had not issued demand notice. Further there is a delay in filing the application before the Labour Court. Learned counsel for the petitioner relied on various judgments in support of the contention on the ground of delay which are as under:-

1. *Municipal Committee, Mansa Vs. Presiding Officer, Labour Court Bathinda and another* 1997 (1) ALJ 138.
2. *Assistant Executive Engineer Karnataka Vs. Sri Shivalinga* 2002 (10) SCC 167.
3. *Management of M/s. Dalmia Cement (Bharat) Ltd. Ballabgarh, Haryana Vs. State of Haryana and others* 2009(3) S.C.T. 74.
4. *Priti Pal Vs. The Presiding Officer and others* 2008(1) S.C.T. 753.
5. *Nedungadi Bank Ltd. Vs. K.P. Madhavankutty* 2000 (2) SCC 455.
6. *Balwant Singh Vs. Labour Court, Bhatinda* 1995(4) S.C.T. 475.
7. *Haryana State Coop. Land Dev. Bank Vs. Neelam* 2005(5) SCC 91.
8. *State of Karnataka and another Vs. Ravi Kumar* 2009 (13) SCC 746.
9. *Kamala Mills Limited Vs. Dilip Kumar G. Damani and others* 2014(1) AIR Bom.R 689.
10. *Punjab State Power Corporation Ltd. Patiala Vs.*

Boota Singh and another 2015 (2) S.C.T. 184.

None appears on behalf of the second respondent-workman.

Heard learned counsel for the petitioner.

No doubt there is delay of about 7 years in filing application before the Labour Court seeking arrears of wages. In respect of wages, it would be continuing cause of action. Therefore, question of delay may not be a hurdle. Hence the cited decisions are distinguishable in respect of the claim of the respondent-workman. The Labour Court has erred in granting interest on arrears of wages to the respondent-workman. Having regard to the delay in approaching Court, petitioner would have been denied interest on arrears of wages. Accordingly, Labour Court award dated 25.10.1995 is modified in respect of award of ₹ 29,000/- to that of ₹19, 485/- which was the claim made by the respondent-workman. Thus, the award dated 25.10.1995 (Annexure P-7) is modified to the above extent.

Petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

August 17, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.