

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

Date of decision: 14.03.2017

CWP No.7666 of 1996

The Rohtak Central Coop. Bank Ltd., Rohtak

...Petitioner

Vs.

The Presiding Officer, Industrial Tribunal –cum- Labour Court, Rohtak & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.S.Dalal, Advocate, for the petitioner.

Mr. Jagbir Singh, Advocate, for
Mr. Ramesh Hooda, Advocate, for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

In this case, the industrial dispute was raised after twelve years of the dismissal of the workman, who was employed in the petitioning Bank. The grave allegations of embezzlement were translated into an FIR and departmental proceedings. In the FIR, the trial ended in acquittal by giving the accused respondent the benefit of doubt, while the departmental proceedings ended in dismissal. Twelve years after the dismissal, the dispute was raised and the appropriate Government made a reference to the Labour Court, which has declared after trial, the dismissal order to be illegal and has thus granted reinstatement with full back wages from the date of demand notice i.e. 07.05.1993. The acquittal came on 30.01.1993. The criminal case was registered under Sections 409, 420, 458 & 471 IPC in case FIR No.59 of 21.06.1981. Before the Lok Adalat on 17.10.2016, the status of the case was noticed by the Hon'ble Members; the workman had been taken

back into service in terms of the Award and has since retired in the year 2006 from the Bank. The only question which remains to be considered in this case is with respect to the right of back wages as awarded. The Bank was not in a position to settle the matter amicably before the Lok Adalat and asked for a decision on merits. That is how this matter has come before me.

I have heard Mr. S.S.Dalal, learned counsel for the petitioner Bank and Mr. Jagbir Singh, representing the workman-respondent No.2.

Keeping in view the totality of the facts and circumstances of the case and the fact that the workman - respondent faced agony of criminal trial and disciplinary proceedings on a rather serious charge, though not established beyond doubt in the criminal proceedings but in the domestic enquiry the charge was proven, I would still refrain myself from exercising equitable jurisdiction in favour of the workman and allow him full back wages from 07.05.1993. Looking also to the fact that the industrial dispute was raised after 12 years, which is sufficient time actually to nullify an Award or quash the reference order in view of the large number of judgments on the point of unreasonable delay including The Nedungadi Bank Ltd. Vs. K.P. Madhavankutty & others, (2000) 2 SCC 455; Executive Engineer Vs. Shivalinga, (2002) 10 SCC 167 and State of Karnataka Vs. Ravi Kumar, (2009) 13 SCC 746 I would not like to act in favour of the respondent to give him any unfair premium on misconduct.

I would rather think that the workman should not have been given any wages from the date of demand notice i.e. 07.05.1993 till the date of Award i.e. 25.01.1996 as the claim arises from employment being short at the time of termination and a little under 3 years of service. Since an inquiry was held and punishment imposed, the question of compliance of the

provisions of Section 25-F of the Industrial Disputes Act, 1947 does not arise in this case.

In view of these facts and circumstances, I would forget about any award of back wages and accordingly would allow this petition while setting aside the award in its entirety as illegal, excessive in terms of relief and suffering from apparent errors of reasoning. However, setting aside of the Award will have no affect on the respondent as he was reinstated and allowed to retire from service of the Bank. Neither would his emoluments nor his retiral benefits, if any, be affected in any manner whatsoever by this order. They will not be open to be disturbed as that would be inequitable at this distance of time. The matter is given a quietus.

14.03.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>