

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**C.M. No.490 of 2017 in/and
CWP No.6750 of 2001
Date of Decision: 19.1.2017**

Pawan Kumar

... Petitioner

Versus

Presiding Officer, Labour Court & anr.

... Respondents

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

Present: Mr. Anupam Bhanot, Advocate,
for the petitioner.

Mr. Saurabh Girdhar, A.A.G., Haryana.

RAJIV NARAIN RAINA, J.(Oral)

C.M. No.490 of 2017

This is an application requesting for actual date of hearing.

Allowed as prayed for. The main case is taken up for final hearing by consent.

CWP No.6750 of 2001

Heard.

The period of service in this case is from 1.7.1985 to 1.4.1986. It is far too brief to contemplate reinstatement in service. Reinstatement does not follow automatically and much less on a technical finding of violation of Section 25-F of the Industrial Disputes Act, 1947(for short 'the ID Act') although mandatory. The termination effected on 31.3.1986 was converted into an industrial dispute which became reference No. 166 of 1997 before the labour court leading to award declining the reference.

Against which the petitioner workman has approached this Court praying

that the award should be set aside.

It is argued on behalf of the petitioner that there is no limitation prescribed under Section 10(1) (c) of the ID Act and therefore, the Labour Court fell in error in non-suiting the petitioner on delay and laches. Though it is true that the relief bringing provision does not provide any limitation in raising disputes but the Courts have held that the approach to the Labour Court should be within reasonable time. In case of a belated claims, the Labour Court is within its discretion to refuse relief. The Labour Court has looked into the evidence produced on record and found not even an iota of explanation for the inordinate delay in the affidavit Ex.W-1 for condoning the delay. When there is no plausible or sufficient explanation as against the stale and belated claim and the delay in raising an industrial dispute by serving a demand notice after years together, then a workman can be declined relief and it is open to the labour court to apply the fair and reasonable measuring stick contained in Article 137 of the Limitation Act as a ready reckoner for delay in seeking legal remedy. The labour Court has rightly noticed the law in Kerala State Electricity Board Trivendram v. T.P. Kunhaliumia, AIR 1997 SC 282; Ajaib Singh v. The Sirhind Cooperative Marketing Processing Society Limited, (1998) 2 SCT 93 and State of Punjab v. Kali Dass & ors., (1997)2 RSJ 240 to which I would add M/s Nedungardi Bank Ltd. v. K.P. Madhavankutty & ors., (2000) 2 SCC 455 etc. While dealing with employment in the public sector, issue of delay gets exacerbated when claiming reinstatement to a cadre post. Then delay can be factored even in Labour law jurisdiction to decline relief. The petitioner was appointed as a Surveyor to serve the office of the Executive Engineer R & B

PWD B&R, Pathankot and the employment is less than a year to be considered seriously to award reinstatement or compensation in lieu of reinstatement. Compensation principles as against claim do not follow automatically. The discretion exercised by the court *a quo* when it is judiciously balanced by keeping in view the facts proven and the materials on record is not open to correction by the writ court only to substitute opinion.

For these reasons, I do not find any merit in this petition and would dismiss it by upholding the award passed by the Presiding Officer, Labour Court, Gurdaspur, dated 18.3.1989 declining the reference.

(RAJIV NARAIN RAINA)
JUDGE

19.01.2017
monika

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