

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14642-2014 (O&M)

Date of Decision:-23.10.2017.

Tahar Khan

.....Petitioner

Versus

Presiding Officer and another

.....Respondents

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

Present: Mr. Mohd. Arshad, Advocate for the petitioner.

Mr. G.S. Wasu, Additional A.G. Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 19.5.2010 (Annexure P-1) in the month of July, 2014.

The petitioner is stated to have been appointed as a Mali-cum-Chowkidar in the year 1986 and he was working regularly on muster roll since 1.4.1991. His services were terminated on 31.3.2000. He raised an industrial dispute in the year 2002. Labour Court proceeded to pass award against the petitioner on 19.5.2010 (Annexure P-1) which is the subject matter of the present writ petition.

Learned counsel for the petitioner submitted that Labour Court has erred in passing the award on merits. Despite the fact that PW-3 Harender Kumar made a statement before the Labour Court to the extent

that there were no records relating to the years 1983 to 1995. Thus, it is

evident that records have been destroyed. Despite the said statement, Labour Court drew adverse inference against the petitioner.

Per contra, learned counsel for the respondent vehemently submitted that petitioner slept over the matter from 19.5.2010 to July, 2014. He had cause of action in the year 2010. At the best he should have approached this Court within a reasonable period. Thus, on the ground of delay and laches, petition is liable to be dismissed.

Heard learned counsel for the parties.

Undisputedly, Labour Court passed award on 19.5.2010 and the petitioner approached this Court challenging the award dated 19.5.2010 in the month of July, 2014. Perusal of the pleadings in the writ petition, nowhere the petitioner has stated as to why there is delay and laches on the part of the petitioner from 2010 to 2014. Thus, on the ground of delay and laches, petitioner is not entitled to any relief and so also challenge to the award dated 19.5.2010. On the ground of delay and laches, Supreme Court in case of ***U.P. Jal Nigam and another Vs. Jaswant Singh and another*** reported in ***(2006) 11 SCC 464*** in para 6 held as under:-

6. The question of delay and laches has been examined by this Court in a series of decisions and laches and delay has been considered to be an important factor in exercise of the discretionary relief under [Article 226](#) of the Constitution. When a person who is not vigilant of his rights and acquiesces with the situation, can his writ petition be heard after a couple of years on the ground that same relief should be granted to him as was granted to person similarly situated who was vigilant about his rights and challenged his retirement which was said to be made on attaining the age of 58 years. A chart has been

supplied to us in which it has been pointed out that about 9 writ petitions were filed by the employees of the Nigam before their retirement wherein their retirement was somewhere between 30.6.2005 and 31.7.2005. Two writ petitions were filed wherein no relief of interim order was passed. They were granted interim order. Thereafter a spate of writ petitions followed in which employees who retired in the years 2001, 2002, 2003, 2004 and 2005, woke up to file writ petitions in 2005 & 2006 much after their retirement. Whether such persons should be granted the same relief or not ?”

Accordingly, petition stands dismissed on the ground of delay and laches.

(P.B. BAJANTHRI)
JUDGE

October 23, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.