

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

C. W. P. No.12072 of 2017

Date of Decision: 30 – 5 - 2017

Malkit Singh

....Petitioner

v.

**Presiding Officer, Industrial Tribunal, Amritsar
and another**

....Respondents

CORAM: HON'BLE MR.JUSTICE KULDIP SINGH

Present: Mr.Amanpreet Kaur, Advocate
for the petitioner.

KULDIP SINGH, J. (ORAL)

Petitioner has impugned the award dated 3.4.2017 (Annexure-P1) passed by the Presiding Officer, Industrial Tribunal, Amritsar (hereinafter to be referred as, 'the Tribunal') vide which reference under Section 2-A read with Section 10(1)(c) of the Industrial Disputes Act, 1947 was answered against the workman-petitioner holding that the reference is barred by the principle of res judicata, since the previous reference before the Labour Court which remained pending for about four years, was withdrawn on 1.12.2010.

Heard.

It comes out that the petitioner was working as a Salesman with the respondent-Society since 1.4.2005. Thereafter, according to the

petitioner his services were regularised on 1.6.2006. However, services of the petitioner were terminated on 12.9.2006. Petitioner served a demand notice on 26.12.2006 which was referred to the Tribunal. The matter remained pending with the Tribunal and the petitioner withdrew the reference on 1.12.2010 without reserving any right to serve a fresh notice. Thereafter, the petitioner served a demand notice on 8.4.2011 which was referred to the Tribunal. The petitioner again withdrew the said reference by reserving the right to file fresh demand notice. Thereafter, another demand notice was served on 13.2.2014 which was referred to the Tribunal for adjudication. The Tribunal has taken the view that in view of the law laid down in **State of Punjab v. Gurbhej Singh and others**, 1994(1) RSJ 379, the second reference is barred by the principle of res judicata.

I am of the view that in the light of the aforesaid facts, the present reference of the year 2014 is barred by the principle of delay and res judicata as the petitioner withdrew the first reference on 1.12.2010 which remained pending for four years and was ripe for decision without reserving the right to serve fresh demand notice. Therefore, it is not a fit case where writ jurisdiction should be exercised to quash the impugned award.

Dismissed.

May 30, 2017

(KULDIP SINGH)
JUDGE

RC

Whether speaking/reasoned?
Whether reportable?

Yes
No