

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18216 of 2015

Date of Decision:31.10.2017

Balwan Singh

... Petitioner

Vs.

Presiding Officer and another

... Respondents

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

Present : Mr. Ravinder Malik (Ravi), Advocate for the petitioner.

Mr. Siddharth Sanwaria, D.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the validity of the award passed by the Labour Court dated 12.03.2009 (Annexure P-3).

Petitioner is stated to have been engaged as a Beldar on daily wage basis by respondent No.2 on 1.4.1993 (the date of entry into service is disputed by the petitioner stating that he was appointed on 1.1.1992). His services were dispensed on 30.09.1999. Thus, he raised industrial dispute. Labour Court, even though, drawn finding that petitioner has completed 240 days in a year, at the same time, for want of muster roll, the same has been distinguished to the extent that there were no order of appointment. Further his services were engaged on daily wage basis. Therefore, with reference to the decisions of the Supreme Court namely **Reserve Bank of India** v. **Gopinath Sharma and another**; 2006(6) SCC 221; **HUDA** v. **Jagmal Singh**; 2006(5) SCC 764; **Secretary, State of Karnataka and others** v. **Uma Devi and others**; 2006 (4) SCC 1 and **Gangadhar Pillai** v. **Siemens Limited**; 2007 (1) SCC 533 to the extent that petitioner was not working against sanctioned post, his grievance was turned down.

Hence, the present petition.

Learned counsel for the petitioner submitted that Labour Court has given finding contrary to the decisions in paras 11 and 12. Since petitioner has worked from 1992 to 1999, he is entitled for reinstatement with continuity of service. He has relied on paras 11, 12 and 13 of the decision of the Supreme Court passed in Civil Appeal No.2335 of 2010 titled as Krishan Singh v. Executive Engineer, Haryana, State Agricultural Marketing Board, Rohtak (Haryana).

Per contra, learned counsel for the respondents raised a preliminary objection relating to filing of writ petition is belated one. Thus, there is a delay and laches on the part of the petitioner. It was submitted that award was passed by the Labour Court on 12.3.2009 and the present petition has been filed on 27.8.2015. Therefore, on the ground of delay and laches on the part of the petitioner, petition is liable to be rejected. It was further submitted that petitioner was appointed only on daily wage basis and he has no right to continue on a post which is required to be filled up by inviting applications for regular appointment. That apart, he is out of service since 30.9.1999. Therefore, question of reinstatement do not arise.

Heard learned counsel for the parties.

Petitioner has challenged the award passed by the Labour Court dated 12.03.2009 and presented this petition on 27.8.2015. There is a delay of more than five years. In the pleadings of the writ petition, no where it is explained about the delay on the part of the petitioner when the cause of action accrued on 12.3.2009 in filing writ petition. Therefore, on the ground of laches, writ petition is liable to be rejected. Even on merit, undisputedly petitioner was appointed on daily wage basis and he has worked for about 7

years. He is out of service since 30.9.1999. Further in view of the judgment of Supreme Court in BSNL v. Bhurumal, (2014) 7 SCC 177, he is not entitled for reinstatement. Moreover, he has also not pointed out that he was working against sanctioned post so as to claim reinstatement and regularization. In the absence of material to show that he was appointed against sanctioned post, petitioner is not entitled for reinstatement and other consequential benefits in view of the decision of the Supreme Court in Uma Devi's case supra read with BSNL v. Bhurumal's case supra.

Accordingly, petition stands dismissed.

31.10.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**