

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4341 of 2013 (O&M)
Date of Decision:-10.08.2017.

Vijay Kumar

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal, Patiala and others

.....Respondents

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

Present: Mr. Prateek Gupta, Advocate for the petitioner.

Mr. Tarun Vir Sing Lehal, Advocate for respondent Nos.2 to 4.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has assailed the award passed by the Labour Court dated 13.12.2012 (Annexure P-1).

Petitioner was stated to have been appointed as a Chowkidar on 01.07.1992 and he has worked up to 31.12.1992. From 01.01.1993 to 01.04.1993 he has worked as a Sewer Man. Thereafter, once again, petitioner was appointed as a Chowkidar. Thus, he has worked as a Chowkidar upto 01.12.1993. Aggrieved by the termination, petitioner is stated to have approached the Civil Court in the year 1995. For want of jurisdiction, civil suit was dismissed on 16.05.1997. Consequently, petitioner raised a demand notice on 03.08.2001 and Reference was made on 13.04.2002. The Labour Court while considering the delay as well as

decision passed in **Secretary, State of Karnataka and others Vs. Uma Devi and others (2006) 2 LLJ, 722 (SC)**, ordered only a compensation of ₹ 15,000/-. Thus, petitioner is aggrieved by the award passed by the Labour Court dated 13.12.2012 (Annexure P-1) to the extent of awarding compensation of merely ₹ 15,000/-. Hence, the present petition.

Learned counsel for the petitioner submitted that delay would not be hurdle for extending the benefit of compensation since the workman was illiterate and he is not aware that he has to raise industrial dispute. Therefore, rightly the Labour Court has passed award in favour of the petitioner. However, to the extent of awarding compensation of ₹ 15,000/- is arbitrary and not in accordance with the various decisions of the Supreme Court like **Bharat Sanchar Nigam Limited v. Man Singh, (2012) 1 SCC 558**, and **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177**.

Per contra learned counsel for the respondents resisted the claim of the petitioner, on the ground of delay and laches. Petitioner's services were terminated in December, 1992. He has raised demand notice only on 13.08.2001. The respondents submitted that Labour Court even though considered the delay in favour of the petitioner and proceeded to pass award of compensation of ₹ 15,000/-. Therefore, there is no infirmity. In fact the Reference itself should have been rejected at the threshold on the ground of delay.

Heard learned counsel for the parties.

Perusal of the dates and events, no doubt it is true that petitioner had a cause of action for raising industrial dispute in the year 1993. However, he had approached the Civil Court by filing a civil suit

which was pending consideration between 1995 to 1997. Thereafter, he had

raised a demand notice on 13.08.2001. Even if reasonable period of 3 years with reference to the filing of suit is taken into consideration, still there is a delay. The respondents have not challenged the award passed by the Labour Court dated 13.12.2012. In other words, respondents have accepted the award passed by the Labour Court to the extent of granting compensation of ₹ 15,000/- to the petitioner. In view of the facts and circumstances, question of interference with reference to delay on the part of the petitioner does not arise. Therefore, question remains is whether the petitioner is entitled to enhanced compensation from ₹ 15,000/- or not. In view of the Supreme Court decisions passed in **Bharat Sanchar Nigam Limited v. Man Singh, (2012) 1 SCC 558** and **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177**, petitioner is entitled to enhanced compensation from ₹ 15,000/- to ₹ 50,000/- having regard to the service rendered by the petitioner for about one year and few months. The respondents are hereby directed to pay enhanced compensation of ₹ 50,000/- to the petitioner within a period of 3 months from today, failing which petitioner is entitled to interest @ 6% per annum from today.

Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

August 10, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.