

CWP No. 4571 of 2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4571 of 2017

Date of Decision: 06.03.2017

KULDEEP SINGH

...Petitioner

Vs.

SHARP FORGING PVT LTD AND ORS.

...Respondents

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

Present: Mr. Vivek Sharma, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

It is not possible for me to act under Article 226 of the Constitution in this case for the simple reason that after the petitioner raised a dispute by serving a demand notice on the management on 25.08.2008, he filed an application on 03.09.2008 before the Controlling Authority under the Payment of Gratuity Act, 1972 claiming payment of gratuity which had been withheld. In the application the workman did not plead that his claim was without prejudice to his rights to be determined by the Labour Court upon a reference. When he fell short of this he would be deemed to have made up his mind to forsake job and therefore the management would not have been incorrect before the Labour Court to plead that this was a case of abandonment. The Labour Court may not have thrashed the moot points articulately but the end result would mean as much. Besides, there is another reason why one must believe this stance fortifying that this was a case where the management admitted then last duty was served on 15.04.2007 and the demand notice raised after one year and four months on 25.08.2008

was delayed. Though this delay may not be a material consideration under Section 10(1)(c) of the Industrial Disputes Act, 1947 because there are no limitations prescribed therein but yet this unexplained delay is a fact coupled with the act of moving the Controlling Authority to claim gratuity within the prescribed period that convinces me that this case does not call for interference.

The petition is accordingly dismissed.

(RAJIV NARAIN RAINA)
JUDGE

06.03.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>