

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

LPA No. 2318 of 2016 (O&M)

Date of Decision : 17.04.2017

Jagdish Kumar

....Appellant

Versus

The Presiding Officer, Industrial Tribunal,
Bathinda and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Mr. Manu K.Bhandari, Advocate
for the appellant.

....

MAHESH GROVER, J. (Oral)

CM Nos.4798 & 4799-LPA of 2016

For the reasons set out in the applications, delay of 22 days
in filing and 106 days in re-filing the appeal is condoned.

Applications stand allowed.

LPA No. 2318 of 2016

This appeal is directed against the judgment of the learned
Single Judge dated 11.03.2016.

The appellant-workman was engaged in the service of
respondents to be paid out of the contingency funds. He enjoyed
employment from 15.11.1995 till 05.07.1996.

Alleging non-compliance of Section 25-F of the Industrial
Disputes Act, 1947 before termination of his services he approached
the reference court who declined interference. It may not be out of
place to mention here that the reference was claimed after a lapse of 6

years. Aggrieved from the findings recorded by the Labour Court he preferred a writ petition which was also dismissed resulting in the present appeal filed with a delay of 22 days in filing and 106 days in re-filing.

Learned counsel for the appellant contends that the fact of violation of Section 25-F is writ large on the face of it in view of the admission of the management's witness and thus there was no escape from the consequences of law which would have held the workman entitled to reinstatement.

We have heard the learned counsel for the appellant and have also perused the impugned judgment as also the material on record.

Learned counsel for the appellant has made much of Annexure P-1 which is an order of termination passed by the respondents as also the statement of MW1 Balwinder Singh Chahal to drive home the point of violation of Section 25-F of the Act. After having perused these two documents, in particular the statement of MW1 Balwinder Singh Chahal, we are of the opinion that the appellant was given an opportunity to continue working awaiting approval considering that his appointment and financial implications were being made through contingency funds. This offer to continue in the employment was made on 29.03.1996 and was ostensibly availed of by the employee till July 1996, whereafter the appellant was also given an opportunity to appear for interview on 06.12.1996 along with other similarly placed employee, which offer he failed to avail of

as he did not appear at all. This in our considered view is a default by the appellant whereby he spurned the offer of employment. Having done so and raising the demand after 6 years would clearly disentitle him to any relief, more particularly when the approach of the respondents was leaning towards accommodating the appellant in employment rather than forcing him out.

No ground to interfere. Dismissed.

(MAHESH GROVER)
JUDGE

17.04.2017
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No