

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

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**CWP-10983-2016 (O&M)
Date of decision:20.03.2018**

Sulakhan Chand

...Petitioner

Versus

Presiding Officer and another

.... Respondents

2.

CWP-21858-2016 (O&M)

Radha Krishan

.... Petitioner

Versus

Presiding Officer and another

..... Respondents

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

Present: Mr. Manjit Singh Sarao , Advocate for the petitioner.

Mr. Sandeep Singal, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

This order shall dispose of the aforementioned 2 petitions.

However, for convenience and clarity, facts are being taken from petition

bearing No. 10983 of 2016.

2. In the instant petition, petitioner has challenged the award passed by the Labour court dated 10.10.2012 (Annexure P1).

3. Petitioner is stated to have worked with the respondent from 01.03.1986 to 13.02.1989. After dispensing his services in the year 1989 he has raised a demand notice only in the year 1998. Consequently, reference was made in the year 2005. The Labour court after examining the factual aspects and the fact that no records were available relating to petitioner's service particulars proceeded to pass award against the petitioner. Hence the present petition in challenging the award dated 10.10.2012.

4. Learned counsel for the petitioner submitted that it was duty of the respondents to produce relevant records before the labour court. Their contention is that records are not traceable. Therefore, labour court has erred in rejecting the reference. Learned counsel for the petitioner relied on Supreme Court decision in respect of delay namely *S.M. Nilajkar and others versus Telecom. District Manager, Karnataka* reported in 2003 (4) SCC 27.

5. Per contra, learned counsel for respondent No.2 submitted that having regard to the conduct of the petitioner that he slept over the matter from 1989 to 1998 on that score itself petitioner has not made out a case so as to interfere with the award passed by the Labour Court. It was further contended that having regard to the distance of time from the date of dispensing the petitioner's services in the year 1989 the records have been weeded out after lapse of 5 years from the date of maintaining the records.

It is for the petitioner to produce necessary material to show that he has worked with the respondent. Therefore, petitioner has not made out a case so as to interfere with the award passed by the labour court.

6. Heard learned counsel for the parties.

7. Perusal of the dates and events it is crystal clear that there is delay and laches on the part of the petitioner in not raising industrial dispute timely. Even assuming that there is delay at the same time it was bounden duty of the petitioner-workman to make available relevant records so as to demonstrate that he had worked with the respondents for consideration of length of time so as to entertain the belated dispute. Therefore, the cited decision is not helpful to the petitioner insofar as entertaining the delay and laches issue is concerned. That apart, dates and events of the present case and the cited decision are entirely different. In view of these facts and circumstances, petitioner has not made out a case. Accordingly, petition stands dismissed.

20.03.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No