

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1078-2018 (O&M)
Date of Decision:-19.01.2018.

Tarkeshwer

.....Petitioner

Versus

The Presiding Officer of Industrial Tribunal-cum-Labour Court-I,
Gurugram, Haryana and another

.....Respondents

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

Present: Mr. Bhupinder Malik, Advocate for the petitioner.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 30.10.2017 (Annexure P-22).

Petitioner is stated to have been appointed with the respondent-Municipal Committee prior to 1997. His services were dispensed in the month of March, 1997. He had cause of action to raise industrial dispute in the year 1997, whereas, he raised the dispute for the first time in the year 2012. Thus, Labour Court proceeded to reject the reference and pass award in favour of the Municipal Committee. Hence, the present petition.

Learned counsel for the petitioner submitted that in respect of terminated employees age wise vacancies were filled up by the State Government. Therefore, he was waiting for decision of the Government.

Since no decision was taken in respect of the petitioner by the Government

consequently, he raised dispute in the year 2011. In support of petitioner's contention, learned counsel relied on two decisions of the Supreme Court reported in (i) **2014 (10) Scale 135 (Raghubir Singh Vs. General Manager, Haryana Roadways, Hissar)** and (ii) **2015 (4) SCT 493 Prabhakar Vs. Joint Director Sericulture Department and another.**

Supreme Court in the case of (State of Jammu and Kashmir Vs. R.K. Zalpuri and other) reported in (2015) 15 SCC 602 held that under Article 226 of the Constitution, discretionary power is vested with the Court to examine delay and laches before entertaining petition. In para 20 and 28 of the aforesaid decision it is held as under:-

20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwalla wherein this Court while dwelling upon jurisdiction under [Article 226](#) of the Constitution, has expressed thus:-

“30. The Court while exercising its jurisdiction under [Article 226](#) is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.

28. Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to be

adjudicated unless non-interference would cause grave injustice. The present case, need less to emphasise, did not justify adjudication. It deserved to be thrown overboard at the very threshold, for the writ petitioner had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant present.”

In view of the latter decision in respect of entertaining writ petition on the ground of delay and laches cited decisions by the petitioner's counsel are distinguishable.

Accordingly, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

January 19, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.