

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

**CWP-21533-2013**

**Date of Decision:08.03.2018**

Balbir Singh

... Petitioner

Vs.

Presiding Officer and another

... Respondents

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

Present : Mr. Rakesh Nagpal, Advocate  
for the petitioner.

Mr. Rohit Arya, A.A.G. Haryana.

**P.B. BAJANTHRI J. (Oral)**

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 7.11.2008 (Annexure P-4)

2. Petitioner's services were engaged on daily wage basis in the month of July, 1994 and he has worked upto 1.4.1999 with certain breaks during the intervening period. Petitioner issue a demand notice on 20.5.1999. Reference was made in the year 2000. Claim statement was filed on 22.1.2007. Labour Court passed the award on 7.11.2008 against the petitioner. Hence, the present petition.

3. Learned counsel for the petitioner submitted that Labour Court has not examined the relevant records during the period from 1.7.1994 to 31.3.1999. What has been examined is only for the period from April 1998 to 31.3.1999 that too an extract of the attendance register vide Annexure R-1. Respondents have failed to produce complete records. Consequently, Labour Court has not appreciated in not producing the complete records so as to establish that petitioner has worked during the period from 1.7.1994 to 31.3.1999. Therefore, Labour Court has erred in passing the award. Learned counsel for the petitioner to over-come the delay issue relied on the decision

of the Supreme Court in the case of **Raghubir Singh v. General Manager, Haryana Roadways, Hissar**; 2014 (10) Scale 135 and for the purpose of moulding the relief wherever there is delay in raising industrial dispute.

4. Per contra, learned counsel for the respondents submitted that petitioner has not rendered 240 days in a year i.e. 1998-1999. To that extent, an extract of Attendance Register was produced before the Labour Court as Annexure R-1. The same has been taken into consideration for the purpose of claim made by the petitioner. Consequently, claim of the petitioner has been rejected. Therefore, there is no infirmity in the order of the Labour Court. It was further contended that there is inordinate delay in filing the present petition insofar as challenging the award passed by the Labour Court. Therefore, on the ground of delay and laches on the part of the petitioner in challenging the award, present petition is liable to be rejected.

5. Heard learned counsel for the parties.

6. No doubt the respondents have failed to produce relevant material before the Labour Court insofar as considering the day to day work of the petitioner to the extent of producing complete attendance register but at the same time one has to examine the delay and laches on the part of the petitioner in challenging the award dated 7.11.2008 in the year 2013. There is a delay of nearly 5 years. Decision relied upon the learned counsel for the petitioner in the case of Raghubir Singh's case (supra) and principle laid down therein can be distinguished in view of the latest decision of the Supreme Court in the case of **State of Jammu and Kashmir v. R.K. Zalpuri and others**; (2015) 15 SCC 602 wherein it is to be noted that only delay and laches is required to be considered among other issues Extracts of para 20 of the said judgment is as under:

*“20. having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation v. 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.”*

In view of the later decision read with unexplained delay for the period from 7.11.2008 till 17.8.2013 the date on which present petition was presented, petition stands dismissed.

08.03.2018  
rajeev

**(P.B. Bajanthri)**  
**Judge**

**Whether speaking/reasoned**                      **Yes/No**

**Whether reportable**                              **Yes/No**