

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 17.12.2018****CWP No.15323 of 2018**

Excise & Taxation Department, Punjab, Patiala through its Commissioner &
others

...Petitioners

Vs.

Tara Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Jasleen Sidhu, AAG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

This petition has been filed by the Excise & Taxation Department, Punjab, Patiala against the Award dated 22.02.2018 passed by the Presiding Officer, Industrial Tribunal, Patiala.

The respondent workman served as a part-time Chowkidar with the Excise & Taxation Department, Patiala from 31.08.1992 onwards. His services were terminated on 01.10.1996. MW-1 Parkash Singh, ETO, while appearing on behalf of the Department, deposed in the witness box that the respondent/workman was appointed as part-time Chowkidar as contingency paid staff w.e.f. 31.08.1992 on purely temporary basis for 89 days. The arrangement continued from time to time till termination. There is no dispute with regard to the period of service.

However, Ms. Jasleen Sidhu points out that though the termination took place in the year 1996, the demand notice was served by

the respondent/workman on 16.12.2002 i.e. after a lapse of about 6 years and this delay was crucial to the determination of the reference and its maintainability and relief should have been declined on this ground.

I have considered this submission. There is no limitation prescribed in Section 10(1)(c) read with Section 2-A of the Industrial Disputes Act, 1947. If there is delay, the Tribunal at Patiala has suitably moulded the relief by awarding 50% back wages from the date of demand notice and not from the date of termination.

As far as the validity of the termination order is concerned, a finding of fact has been returned that departure was effected in violation of the provisions of Section 25-F of the Act as neither notice, nor one months' wages in lieu of notice and retrenchment compensation was paid at the time of termination. Thus, I have no reason to substitute the opinion of the Tribunal well taken, when it is not perverse, irrational or based on misreading of evidence and accordingly would dismiss the petition with costs of ₹ 20,000/-

However, Ms. Sidhu has implored this Court not to award exemplary costs as proposed for filing the instant petition.

I have considered the submission, but keeping in view the conduct of the State while prosecuting the instant petition seeking six adjournments by different law officers one after the other, I find no substance in it. The petition is patently frivolous and apparently filed in routine and the same deserves to be dismissed with costs as ordered.

The costs be deposited with the State Legal Services Authority, Haryana within a month from the date of receiving of certified copy of this

order with amount to be recovered from those who advised the filing of the petition.

17.12.2018

Vimal

**[RAJIV NARAIN RAINA]
JUDGE**

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>