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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CWP-18543-2018**
Date of Decision : August 01, 2018

Narain Dutt Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,
Ambala and others.
.... Respondents.

2. **CWP-18596-2018**

Fateh Singh Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,
Ambala and others.
.... Respondents.

3. **CWP-18707-2018**

Nar Singh Petitioner.

Versus

The Presiding Officer, Labour Court,
Ambala and others.
.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Argued by Mr. Rakesh Nagpal, Advocate
and Mr. Rahul Jain, Advocate
for the petitioners.

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SHEKHER DHAWAN, J.

Challenge in the above titled three writ petitions is to the common award dated 28.02.2018 (Annexure P/5) passed by learned Industrial Tribunal-cum-Labour Court, Ambala (for short, “**the Tribunal**”) vide which references were answered against the present petitioners on the ground of delay as per Section 10(2-A) of the Industrial Disputes Act, 1947 (for short, “**the Act**”). Therefore, those are being taken up together for disposal. For facility of reference, facts are being taken from CWP-18543-2018 titled **Narain Dutt Vs. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala.**

Petitioner-Workman, Narain Dutt was appointed as daily wage Labourer in the year 1991 and continued to work till the year 2003. His services were terminated on 20.06.2004 without issuance of any show cause notice and in violation of Sections 25-F and 25-H of the Act. Petitioner served a demand notice on 7.9.2016 (Annexure P/1) and subsequently filed claim statement on 8.8.2017 before the Tribunal.

2. Management contested the claim on the ground that the petitioner had not worked for a period of 240 days in the preceding calendar year. The actual work done by the workman is given below in tabulated form:-

Year	Actual work-done/Days
1990	57
1991	96
1992	142
1993	283

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1994	152
1995	206
1996	190
1997	96-1/2
1998	36
1999	13
2001	62
2002	52

3. Contention was raised before the Tribunal that the present case is hopelessly time barred as the demand notice was issued after a lapse of 13 years and the same is barred under Section 10(2-A) of the Act.

4. Learned counsel for the petitioners contended that the present cases are not covered under the provisions of Section 10(2-A) of the Act and the Tribunal has ample power to condone the delay in the given circumstances. Learned Tribunal has not considered this aspect that there were sufficient grounds to condone the delay. On this point, reliance was placed upon the judgments of Hon`ble Apex Court in Learned counsel for the petitioner has relied upon **Raghubir Singh vs. General Manager, Haryana Roadways, Hissar, 2014(10) JT 168**; **Karan Singh vs. M/s Executive Engineer Haryana State Marketing Board, 2007(12) JT 141**; **Ram Kumar vs. Presiding Officer, 2002(2) S.C.T. 323**; **Sapan Kumar Pandit vs. U.P. State Electricity Board, 2001(5) JT 592**.

5. Having considered the submissions made by learned counsel for the petitioners and appraisal of the record, this Court is of the considered view that the alleged termination of the petitioner had taken place in the year 2004 and the demand notice was issued after a period of

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13 years without there being any justified grounds. Learned Tribunal while considering this fact has rightly decided the references that the same are barred under Section 10(2) of the Act. Needless to mention that the delay can be condoned if some justified reasons are given, but if there are absolutely no case or grounds made out for condonation of delay, the unexplained delay of 13 years cannot and should not be condoned. Similar matter was before Hon`ble Apex Court in **The Nedungadi Bank Ltd. Vs. K.P. Madhavankutty and Ors, JT 2000(1) SC 388**, wherein even delay of 7 years was not condoned, but here in the present case, unexplained delay is of 13 years, which has rightly not been condoned by the Tribunal and the award has been pronounced accordingly.

6. In view of the above, no ground to interfere in the impugned award is made out. The present writ petitions are without any merit and the same stand dismissed.

(SHEKHER DHAWAN)
JUDGE

August 01, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes