

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 19047 of 2018

Date of Decision: 02.08.2018

Naib Singh

... Petitioner(s)

Versus

The Presiding Officer, Labour Court, Ambala and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Rahul Jain, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present writ petition is challenge to the impugned award dated 28.02.2018 (Annexure P1), passed by the learned Presiding Officer, Labour Court, Ambala whereby reference was answered against the petitioner on the ground of delay as per Section 10(2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”).

Facts relevant for decision of the present petition that Petitioner-workman was appointed as daily wage Labourer in the month of January 1988 and continued to work till June 2004. His services were terminated on 20.06.2004 without issuance of any show cause notice and in violation of Sections 25-F, 25-G, 25-H and 25-N of the Act. Petitioner served a demand notice on 25.04.2016 (Annexure P2) and subsequently filed claim statement before the learned Court below.

The management contested the claim on the ground that the

petitioner had not worked for a period of 240 days in the preceding calendar year.

Contention was raised before the learned Court below that the present case is hopelessly time barred as the demand notice was issued after a lapse of 12 years and the same is barred under Section 10(2-A) of the Act.

Learned counsel for the petitioner contended that the present case is not covered under the provisions of Section 10(2-A) of the Act and the learned Court below has ample power to condone the delay in the given circumstances. Learned Court below 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.***

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 12 years without there being any justified grounds. Learned Court below, while considering this fact, has rightly decided the reference that the same is 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

of 12 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 seven years was not condoned, but here in the present case, unexplained delay is of 12 years, which has rightly not been condoned by the learned Court below 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 petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

August 02, 2018
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No