

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.27029 of 2018
Date of Decision: 22.10.2018**

Hardev Singh

...Petitioner

Vs.

**Chairman cum Managing Director,
Punjab State Power and Transco
Corporation Ltd. and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vishal Aggarwal, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. By way of this petition, directions are sought in the nature of mandamus directing the respondents to convert the services of the petitioner as work charged T-Mate w.e.f. 01.04.1989 and as Assistant Lineman w.e.f. 25.08.2004 on par with one Sukhdev Singh on the ground that both were similarly situated. This petition was filed on July 12, 2018 and was re-filed twice before its listing today for preliminary hearing.

2. The petitioner was retrenched from service in September 1989.

3. The petitioner filed an application under Section 33-C (2) of the Industrial Disputes Act, 1947 ("1947 Act") before the Industrial Tribunal, Gurdaspur. He claimed compensation of ₹5 lakh to be computed and paid to him.

4. The respondent-Punjab State Power Corporation Ltd. contested the application objecting that it was not maintainable. The petitioner was

appointed as daily wager on May 01, 1987 at Batala and he worked up to 1989 for 738 days after which he left the job on his own accord and never came back. He was re-engaged in 1997 in terms of a policy dated January 23, 1989 of PSEB, Patiala that those daily wage workers who had completed 500 days of service up to March 31, 1988 and are continuing in service of the Board were eligible for conversion into work charged employees. It was averred that Sukhdev Singh was also working as daily wage labour and had left his job on his own accord in 1988 and, thereafter, he served a demand notice, raised an industrial dispute and was ultimately awarded reinstatement and continuity of service by the Labour Court/Tribunal with effect from the date of joining i.e. March 1987. Sukhdev Singh won his continuity by a Court direction but the applicant was re-employed without continuity of service as per policy of management during 1997 as a fresh hand. The cases of the petitioner and Sukhdev Singh stand on different footing. The Tribunal had held that Sukhdev Singh was given benefits as per directions of the Labour Court under Section 10 (1) (c) reference proceedings and the present case arises from an application under Section 33-C (2) of the 1947 Act. The Tribunal has observed that the application is not maintainable nor the amount claimed can be said to be legally payable and as a result the application has been dismissed by the order dated February 20, 2017. The petitioner never questioned his termination from service and, therefore, he can have no rights other than those acquired after 1997 when he was re-engaged.

5. I find no ground to interfere in the order passed by the

Tribunal. In any case, the claim in the application and in the present petition suffers from inordinate delay and laches especially when the application under Section 33-C (2) was filed in 2016 claiming under a stale and dead cause of action where even a civil suit would be barred by time.

6. The petition is devoid of substance and is ordered to stand dismissed in limine.

(RAJIV NARAIN RAINA)
JUDGE

22.10.2018
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Whether speaking/reasoned Yes

Whether reportable No