

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

LPA-1518-2018 (O&M)

Date of decision:- 03.12.2018

Naib Singh

...Appellant

Versus

The Presiding Officer, Labour Court, Ambala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. B.S. Bedi, Advocate,
Mr. Rahul Jain, Advocate,
for the appellant.

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KRISHNA MURARI, C.J. (ORAL)

This intra court appeal under clause X of the Letters Patent is directed against the judgement and order dated 02.08.2018 passed by learned Single Judge dismissing the writ petition filed by the petitioner (appellant herein) challenging the award of the Labour Court dated 28.02.2018 rejecting the same on the ground of delay and laches.

2. Admittedly, the service of the appellant, who was working as daily wage labourer, was terminated on 20.06.2004. A demand notice was served by the appellant on 25.04.2016 after about 12 years and subsequently claim statement was filed before the Labour Court which was dismissed on the ground of inordinate delay and laches. Learned Single Judge has also dismissed the writ petition on the same ground.

3. Learned counsel for the appellant vehemently contended that both the Labour Court and the learned Single Judge have committed a manifest error of law in rejecting the

claim as barred by limitation since under the provisions of Section 10 (2-A) of the Industrial Disputes Act, 1947, no limitation is prescribed, therefore, the claim of the appellant could not have been thrown out on the ground of limitation. Reliance has also been placed on the judgement of the Hon'ble Apex Court in the case of *Sapan Kumar Pandit Vs U.P. State Electricity Board*, 2001 LLR 900 and a Division Bench judgement of this Court in the case of *Ram Kumar Vs Presiding Officer*, 2002(2) SCT 323.

4. We have considered the argument advanced by learned counsel for the appellant and perused the record.

5. In this connection, reference is made to the judgement of the Hon'ble Apex Court rendered in the case of *Nedungadi Bank Ltd. Vs K.P. Madhavankutty*, 2000(1) JT 388, wherein in paragraph 6, it has been observed as under:-

"Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one."

6. In this case also, the delay is of 12 years and no industrial dispute was existing. The judgements relied upon by learned counsel for the appellant are clearly distinguishable as the issue involved therein was in a different context. In view of the observation of the Hon’ble Apex Court referred to above, we do not find any infirmity in the judgement of the learned Single Judge, which may require our interference.

7. The appeal accordingly fails and stands dismissed in limine.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

03.12.2018
Amodh

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