

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 04.02.2019****CWP No.2953 of 2019**

State of Punjab & others

...Petitioners

Vs.

Sunil Kumar & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep Vermani, Addl. AG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

1. This petition has been filed by the State of Punjab challenging the award passed by the Presiding Officer, Industrial Tribunal, Bathinda on 30.01.2017.

2. By the impugned award, the Tribunal at Bathinda denies reinstatement to the workman, but awards compensation of Rs.1 lakh in lieu of reinstatement. It is beyond cavil that termination of the workman in July, 1997 was in breach of the mandatory procedure under Section 25-F of the Industrial Disputes Act, 1947, as neither notice nor salary in lieu of notice or retrenchment compensation was paid at the time of termination. The period of service rendered in the Department as Sweeper (Class IV) was about 3 years.

3. The issue seriously contested by the State is that there was delay of 12 years in raising the dispute and for this reason no relief should have been granted to the workman after lapse of such a long time.

4. It is settled that there is no limitation provided in Section 10 of the Act and the rigours of Article 137 of the Limitation Act, 1963 does not apply to reference proceedings. Legally speaking, it would not be correct for the Industrial Tribunal to dismiss the claim out-rightly on the ground of delay without looking to the other facets of the case to see whether relief was altogether inadmissible or could be granted, either wholly or in part. In exercise of its jurisdiction, the Tribunal has judiciously moulded the relief by declining reinstatement and instead awarding Rs.1 lakh as compensation in lump sum. In the words of the Tribunal, the amount of compensation has been reached and calculated having regard to the fact that the workman was removed from service long back in 1997 and at the day of departure his basic pay scale was Rs.750-1350/-. If the arrears of salary is calculated from the year 1997 onwards, it would come to a very large figure, which the workman ought to be deprived of because of his extraordinary delay in seeking judicial redress against the State to claim a public post. When the discretion vested in the Tribunal has been exercised judiciously, it is not for the writ court to interfere in the award to substitute the opinion on the same material from that of the Industrial Tribunal.

5. In view thereof, I find no earthly reason to interfere in the well reasoned award of just and adequate compensation for the injury and would dismiss the petition as lacking in merit.

04.02.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
No