

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.1440 of 2023

Date of Decision: January 24, 2023

Policemen Welfare Gas Agency

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Vikram Anand, Advocate,
for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India seeking a writ in the nature of certiorari for quashing order dated 06.10.2016 (Annexure P-1), passed by the Industrial Tribunal, Amritsar, whereby respondent No.3 was directed to be reinstated with 20% back wages along with interest @ 9% per annum from the date of demand notice dated 16.04.2013.

The facts, in brief, as contained in the writ petition are that on 16.04.2013 one demand notice along with settlement of claim was sent by respondent No.3-Parminder Singh mentioning therein that he was working as Computer Operator with the Policemen Welfare Gas Agency, Police Line, Tarn Taran and his services were illegally terminated on 17.02.2013 without any notice, charge-sheet as well as without following the provisions of Sections 25-F, 25-G and 25-H Industrial Disputes Act, 1947. It was further pleaded that the salary of respondent No.3 for the period from

01.02.2013 to 16.02.2013 was not paid by the petitioner, and juniors to him are still working with the management. He had moved a complaint to the Labour Inspector on 28.03.2013 against the management for his reinstatement, but they did not take any action. Finally, the dispute reached the Labour Court through reference dated 26.08.2013.

The petitioner-management contested the claim of respondent No.3 by filing written statement, wherein it is mentioned that the reference is not maintainable as the workman was not employed against sanctioned post and the management is not covered under the definition of 'Industry' as per Industrial Disputes Act. It is also stated that the workman has voluntarily left the job and joined at Thermal Plant Goindwal Sahib for better prospectus. On merits, it is stated that the workman was engaged purely on temporary basis for maintaining the records of the gas agency on daily wage basis and that there exists no post of Computer Operator in the Policemen Welfare Gas Agency and as such the question of retaining him on permanent basis does not arise. The Industrial Tribunal decided the dispute in favour of workman and directed the management to reinstate respondent No.3 with 20% back wages. Hence this writ petition.

Learned counsel has argued that the award passed by respondent No.2 is contrary to the facts on record and law, therefore, the same is not sustainable. According to learned counsel, the claim of respondent No.3 was not maintainable as the Policemen Welfare Gas Agency (petitioner) is not covered under the definition of Industry as per Industrial Disputes Act, 1947. The Industrial Tribunal has also failed to consider the material fact that respondent No.3 was not employed against a sanctioned post and was only appointed temporarily on daily wage basis.

Learned counsel further submits that even no appointment letter was issued to respondent No.3, therefore, he prays that the impugned award be set-aside.

After hearing the learned counsel, considering the averments and material on record, this court finds that the award passed by the Labour Court is dated 06.10.2016 and the present writ petition impugning the said award has been filed in 2023. Petitioner has failed to give any sufficient explanation behind this delay in invoking the writ jurisdiction of this court, therefore, this court has no hesitation in holding that the petition suffers from laches.

Resultantly, no ground is made out for exercise of extraordinary writ jurisdiction.

Dismissed.

January 24, 2023
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No