

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

CWP-21578-2021 (O&M)
Date of Decision: 07.11.2023

KRISHAN SWAROOP SHARMA

...Petitioner

Versus

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH THROUGH ITS
PRESIDING OFFICER AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. A.S. Pannu, Advocate
and Mr. B.S. Gill, Advocate
for the petitioner.

HARSH BUNGER, J. (ORAL)

1. Petitioner (Krishan Swaroop Sharma) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking quashing of the Award dated 20.06.2011 (Annexure P-1) passed by the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh (here-in-after referred to as 'the Tribunal'); whereby the reference of industrial dispute was answered against him.

A further prayer has been made by the petitioner for issuance of a direction to respondent No.1 to reinstate him with continuity of service and full back wages.

2. Briefly, the petitioner raised an industrial dispute with regard to his dismissal from service, which was referred for adjudication to the Tribunal.

3. As per the claim statement filed by the petitioner-workman, he was posted as a Peon-cum-Waterman at Bhikhiwind Branch, District Amritsar of the Central Bank of India (for short 'the Bank'). On 12.01.1994, the petitioner was charge-sheeted for preparing a forged passbook of Account No.D252 of Sh. Arjun Singh and secondly for presenting a withdrawal slip of Rs.8900/- in the said account by forging the thumb impression of the deceased account holder and posting the withdrawal himself in the account and receiving the amount. It appears that an enquiry was conducted and thereafter, the petitioner-workman was dismissed from service.

4. It is the case of the petitioner-workman that he was not given the proper opportunity to defend himself as no date of enquiry was communicated to him and he was also not allowed to produce any defence evidence or to cross-examine the management-witnesses. Petitioner-workman claims that the entire enquiry was held at his back and there was no witness of tempering of record by the workman and there was also no expert evidence to prove that the alleged passbook was prepared by the petitioner-workman. It further appears that there was a confession of the workman of the charges; however, the petitioner claims that the said confession was obtained by coercion and pressure and no enquiry report had been provided to him and therefore, the order of dismissal of the petitioner-workman from service, was illegal, unjustified and against the principles of natural justice. It was also prayed that the punishment of dismissal was disproportionate to the alleged misconduct; accordingly, prayer for reinstatement with full back wages was made.

5. The afore-said claim of the petitioner was contested by the respondent-Bank; wherein the assertions of the petitioner-workman were controverted by detailing out the mode and manner, in which, the passbook was forged and also by stating the manner in which the enquiry proceedings were carried out. Accordingly, prayer for dismissal of claim petition was made.

6. From the pleadings of the respective parties, the following issues were framed :-

“1. Whether the confession of the workman was a result of any pressure or coercion of management?

2. Whether the enquiry was conducted fairly and according to the principles of natural justice?

3. Whether the evidence in enquiry was not sufficient to prove the alleged misconduct of the workman?

4. Whether punishment awarded to the workman is disproportionate to the alleged misconduct?

5. To what relief the workman is entitled?

7. In order to substantiate his claim, the petitioner-workman examined himself and on the other hand, the respondent-Bank examined one Sh. C.R. Verma, Manager, Regional Officer, Amritsar. Reliance was placed upon the enquiry report as well as other documents.

8. The leaned Tribunal, after considering the evidence on record, rejected the claim of the petitioner by holding that the action of the management of the Central Bank of India, Amritsar to impose the punishment of dismissal from service on the workman, is legal and justified.

9. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition.

10. I have heard learned counsel for the petitioner and have gone through the paper-book as well as impugned Award dated 20.06.2011 (Annexure P-1) passed by the Tribunal, with his able assistance.

11. Concededly, the impugned Award came to be passed by the Tribunal below on 20.06.2011 (Annexure P-1) and the instant writ petition has been filed in the year, 2021.

12. In the case of ***Er. Darshan Singh Bhullar Vs. Punjab State Electricity Board*** reported as ***2011(3) S.L.R. 287***; a Division Bench of this Court held that the limitation as applicable in a Civil Suit would be applicable to the writ petition also. In the case of ***“Er. Darshan Singh Bhullar (supra)***, it was held as under:-

“ - x - - x - -x-

2. ...The appellant has worked as Trainee Engineer in the shipping Corporation of India from 1982 to 1985 and then applied for direct appointment on the post of Trainee Engineer in the Punjab State Electricity Board- respondent. He was selected and appointed by the Board as Trainee Engineer. In that regard appointment letter dated 27.2.1986 (P.4) would be relevant. From the post of Trainee Engineer he was promoted as Assistant Engineer and then further to the post of Executive Engineer. The claim of the appellant that period of service from 1982 to 1985 spent as Trainee Engineer in the Shipping Corporation of India should be counted for the purposes of qualifying service for promotion has not been accepted on the ground that such claim was not made at the time of appointment in 1985-86. Even when the appellant was promoted as Assistant Engineer or Executive Engineer no such claim was made. Merely because one Gian Singh was given the benefit of service rendered by him in the PWD (B&R), Haryana in pursuance of Regulation 9(4) of Punjab State Electricity Board Service of Engineers (Civil) Regulations, 1965 would

*not ipso facto mean that the appellant would also be entitled to similar benefits. If any such benefit was available to the appellant then the cause of action had arisen in 1986 or at any time subsequently when he was promoted as Assistant Engineer. The appellant should have approached the Court within a reasonable time not exceeding three years from the date cause of action had arisen. In writ proceedings, the period of limitation of three years has been read by a judgement of the Constitution Bench of Hon'ble the Supreme Court rendered in the case of **State of Madhya Pradesh v. Bhai Lal Bhai AIR 1964 Supreme Court 1006**. The basic reason is that in writ proceedings the period of limitation cannot be more than the period prescribed for filing a civil suit. Accordingly, we are of the view that the appeal does not merit admission and is thus liable to be dismissed.”*

Hon'ble Supreme Court in the case of “**Chennai Metropolitan Water Supply and Sewerage Board and others Vs. T.T. Murali Babu**”, 2014 **A.I.R. (S.C.W.) 1142** has observed as under:-

“ - x - x -

16. Thus, the doctrine of delay and latches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors

of the Court. Delay reflects inactivity and inaction on the part of a litigant a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" - and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons who compete with Kumbhakarna or for that matter Rip Van Winkle. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

- x - x - ”

13. A perusal of the writ petition would indicate that the petitioner has given the following reason for delay in challenging the afore-said Award :-

“6. That the petitioner engaged an advocate of Panchkula to challenge the award. The counsel kept on informing the petitioner that the matter had not yet been

heard by this Court. When the petitioner made enquiry and came to know that the said advocate had not filed the writ petition. It is in this circumstances that the delay has occurred to file the present writ petition. The petitioner has made a complaint against the said advocate to the Bar Council. There is no period of limitation prescribed for filing the writ petition, but it is an established principle of law that the petition has to be filed without undue delay. The delay which has occurred is because of the circumstances mentioned hereinabove and therefore the same is liable to be condoned.”

14. The above extracted explanation sought to be rendered by the petitioner in para 6 of writ petition is general and vague in nature. The name of the advocate stated to have been engaged by the petitioner, is not forthcoming and neither the material particulars regarding date, month and year, when such counsel was engaged, is also not forthcoming. Even the date on which, the petitioner had statedly made an enquiry from the said advocate regarding the status of the writ petition is not mentioned. Although, the petitioner has stated that he has submitted a complaint against the said Advocate to the Bar Council; however, neither any detail thereof has been provided nor any such complaint has been attached to this petition.

15. It is observed that it is very easy to put blame on a lawyer alleging his/her negligence.

16. I find that the aforesaid general and vague averments for seeking condonation of delay of about ten years cannot be accepted as “sufficient cause” in view of the well settled law that the limitation to file a writ petition is the same as applicable in the case of filing of a Civil Suit i.e. three years.

17. In view of the above discussion, the instant writ petition

challenging the Award dated 20.06.2011 (Annexure P-1), having been filed in the year-2021 suffers from gross delay and laches and the same is accordingly dismissed.

18. All pending application/s, if any, shall stand closed.

November 07, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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