

**CWP-17329-2022 (O&M)**

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

**CWP-17329-2022 (O&M)**

**Date of Decision: 13.03.2023**

**HARVINDER SINGH**

**.. Petitioner**

**Vs.**

**PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND LABOUR  
COURT, UT AT CHANDIGARH AND ORS.**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Amit Kaith, Advocate for the petitioner.

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**Manoj Bajaj, J. (Oral)**

Petitioner (workman) has filed this writ petition under Article 226 Constitution of India seeking writ in the nature of certiorari for quashing the impugned award dated 02.11.2021 (Annexure P-1), whereby his claim for setting aside termination order dated 27.04.2006 passed by Management-CTU, was rejected.

The facts, in brief, as contained in the writ petition are that the Chandigarh Transport Undertaking (Management) was facing shortage of drivers, therefore, an advertisement was issued on 11.10.2003 for filling up 45 vacancies of drivers on contract basis. The name of the petitioner was recommended by the employment exchange and after going through the various stages of appointment, he was selected and appointed through appointment letter dated 28.06.2004. His term was extended from time to time and his last extension order was passed on 07.04.2006. The petitioner performed his duties to the satisfaction of his superiors, who worked till 27.04.2006, as his services were terminated on the ground that the regular

appointments on posts of drivers have been made.

Aggrieved against this, he raised industrial dispute to challenge his retrenchment, *inter-alia*, on the ground that various posts of drivers are still lying vacant and the termination order has been passed in violation of provisions of Sections 25-F and 25-N Industrial Disputes Act, 1947. Further, it was pleaded that various fresh appointments to the post of drivers were made by the Management, but the said posts were not offered to the retrenched employees, therefore, the Management has committed the violation of provisions of Sections 25-G and 25-H of the Act as well. He pleaded that his claim is covered by an award dated 27.02.2013 passed by the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh, whereby similarly terminated employees were reinstated. Lastly, it was prayed that his termination order be set-aside and the petitioner be reinstated with continuity of service and back wages along with interest.

The claim was contested by the Management by filing written statement, wherein they raised preliminary objection that the claim is belated, as his services were dispensed with in April, 2006, whereas the industrial dispute has been raised by him after a period of approximately ten years. It was highlighted that the recruitment of 45 drivers was purely on contract basis, wherein it was specifically mentioned that his appointment is for a period of 89 days or till the regular incumbent is appointed. As per terms and conditions, the services of the petitioner were to discontinue after expiry of contract period without any notice and no compensation was admissible to him after completion of the contractual service. Further, the claim of the petitioner that his case is covered by award dated 27.02.2013 was specifically denied, as those drivers were appointed on contract basis in

the year 1999 and some of the retrenched employees had approached the Labour Court and they were directed to be reinstated with 50% back wages only against the vacant posts on regular basis. The Management pleaded that at the time of termination of the contract of the workman, no vacant post was available and denying other averments, it was prayed that the claim be dismissed.

After examining the pleadings and evidence on record, the Tribunal answered the reference against the workman. Hence this writ petition.

Learned counsel for the petitioners has argued that Chandigarh Transport Undertaking had engaged the petitioner on the post of Driver w.e.f. 28.06.2004, but his services were illegally terminated on 27.04.2006, therefore, he raised the industrial disputes and through the impugned award, the Labour Court-cum-Industrial Tribunal has dismissed the reference illegally. He submits that even the issue of alternative relief of compensation was not examined by the Industrial Tribunal, which has compelled the petitioner to invoke the writ jurisdiction of this court under Article 226 Constitution of India. According to the learned counsel, the impugned award is not sustainable in the eyes of law and warrant interference by this court.

During the course of hearing, it is not disputed by the learned counsel that the petitioner was engaged as Driver on contractual basis in order to meet with the shortage of Drivers by the Management (Chandigarh Transport Undertaking) as a stop gap arrangement and his services were dispensed with, as regular incumbents to the post of Driver stood appointed.

After hearing the learned counsel, considering the averments

and material on record, this court finds that the petitioner had worked only for a short period as Driver with Chandigarh Transport Undertaking w.e.f. 28.06.2004 to 27.04.2006 and the cause of action had accrued to him when his services were dispensed with, but the industrial dispute was raised by him after a long gap of approximately ten years, thus, the same suffers from latches. Though the learned counsel has made an attempt to justify the delay in raising the industrial dispute by contending that since the similar references were pending decision and one of such industrial disputes was decided on 27.02.2013, therefore, the petitioner raised the demand after 27.02.2013, but the explanation offered by the petitioner is not worth acceptance because the claim of the workmen decided on 27.02.2013 was passed in their favour by considering the availability of vacant posts, whereas in the present case, it was categorically stated by Chandigarh Transport Undertaking in its reply that presently no post is available.

No doubt, the provisions of Section 10 of Industrial Disputes Act, 1947 do not contemplate any time frame for raising the dispute, but this issue has been rightly decided by the Industrial Tribunal against the workman by placing reliance upon the decision rendered in *Prithvi Singh Vs. Executive Engineer, HPSEB Limited, Division Rajgarh, District Sirmaur, H.P. & others, CWP No.4847 of 2015, decided on 26.08.2019*. Similarly, issue No.1 was also decided against the workmen with the observation that termination of their services were not illegal as on the same day, the regular appointments to the post of Drivers were made by the Management.

At this stage, learned counsel for the petitioner states that he

does not press the claim for reinstatement and prays only for a limited

indulgence to grant compensation to the petitioner.

Having considered the alternative prayer, this court is not inclined to entertain the alternative prayer as well in the absence of any averment in the writ petition that after his alleged termination, the petitioner was not gainfully employed elsewhere. A perusal of the impugned award reveals that the Industrial Tribunal has carefully examined the material on record while deciding the reference against the petitioner.

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

Dismissed.

13.03.2023

Jasmine Kaur

(MANOJ BAJAJ)

JUDGE

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|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |