

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

CWP-7667-2022

Date of decision : 30.01.2023

Surinder Singh

...Petitioner

Vs.

**Presiding Officer-cum-Industrial Tribunal and
Labour Court, Union Territory, Sector-18
Chandigarh and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

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

MANOJ BAJAJ, J.

Petitioner-Surinder Singh has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari seeking quashing of the impugned award dated 02.11.2021 passed by respondent No.1, whereby his claim for setting aside the termination order dated 27.04.2006 passed by Management-CTU, was rejected.

Briefly the facts of the case 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. Being eligible, 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. The term of the contract was extended from time to time and the last extension order was passed on 07.04.2006. The petitioner performed his duty 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, petitioner 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. It was pleaded that petitioner's claim is covered by an award dated 21.04.2015 passed by the Industrial Tribunal-cum-Labour Court, U.T.Chandigarh, whereby similarly terminated employees were reinstated. Lastly, it was prayed that the 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 the petitioner's services were dispensed with in April, 2006, whereas the industrial dispute has been raised by them after a period of approximately nine years. It was highlighted that the recruitment of 45 drivers was purely on contract basis, wherein it was specifically mentioned that their 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 21.04.2015 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 petitioner 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 references 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 nine years, thus, the same suffers from laches. 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 in the considered opinion of this Court, the explanation offered by the petitioner is not worth acceptance, because the claim of the petitioner/workmen is based on difference cause of action, who failed to raise his grievance in time.

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 workmen 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 was 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 the 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.

(MANOJ BAJAJ)
JUDGE

30.01.2023

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