

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-18406-2015
Date of Decision: 13.12.2023

Indraj
..... Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and
another
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sunil Kumar Bhardwaj, Advocate
for the petitioner.

Mr. Praveen Chander Goyal, Addl. A.G., Haryana.

HARSH BUNGER J. (ORAL)

1. Petitioner (Indraj) has filed the instant writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing impugned award dated 15.12.2008 (Annexure P-3) passed by the learned Industrial Tribunal-cum-Labour Court, Rohtak (in short ‘the Tribunal’), whereby the reference of industrial dispute raised by the petitioner, regarding termination of his services, was answered against him.

A further prayer has been made by petitioner for directing respondents No.2 and 3 (hereinafter referred to as ‘the respondent-Management’) to reinstate the petitioner in service.

2. Briefly, the petitioner raised an industrial dispute regarding termination of his services. The said dispute was referred to the Tribunal

below, for adjudication.

3. As per the claim statement of petitioner, he was engaged by the respondent-Management as Beldar-cum-Mali on 01.06.1991 on daily wage basis and his work and conduct was satisfactory. Petitioner claimed that on 01.12.1996, his services were verbally terminated without assigning any reason, although he had worked continuously w.e.f. 01.06.1991 up to 30.11.1996 and had completed more than 240 days of service in each calendar year. It was further claimed by the petitioner that his juniors had been retained in service by the respondent-Management, and therefore, his services were terminated in violation of the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (for short 'the 1947 Act).

4. The aforesaid claim of petitioner was contested by the respondent-Management *inter alia* on the plea that the Forest Department does not fall within the definition of 'Industry' under the 1947 Act. It was further stated by the respondent-Management that claim of the petitioner was itself time barred and not maintainable. On merits, the respondent-Management stated that the petitioner had worked from June, 1992 up to July, 1995 on daily wages with breaks; and he was given the entire payment for the days he had worked. It was further stated by the respondent-Management that the petitioner-workman had not completed 240 days of service in any calendar year. Accordingly, it was submitted that there was no violation of the provisions of the 1947 Act; and prayer was made for dismissal of the claim of petitioner.

5. From pleadings of the parties, following issues were framed by the Tribunal below:-

"1. Whether the termination of services of Sh. Inder Raj is justified

and in order? If not, to what relief is entitled?

2. Whether the management, does not fall within the definition of industry? OPM

3. Relief.”

6. Thereafter, both the parties led evidence in support of their respective case. Petitioner examined himself as WW-1 and further examined Sh. Ramesh Kumar, Clerk, Office of D.F.O., Bhiwani as WW-2. On the other hand, the respondent-Management examined Sh. Mohinder Singh, Office of R.F.O., Badhra, District Bhiwani as MW-1.

7. Upon considering the material/evidence available on record, the Tribunal below rejected the claim of petitioner vide impugned award dated 15.12.2008 (Annexure P-3).

8. Being aggrieved against the aforesaid impugned award, the petitioner has filed the instant writ petition before this Court.

9. Learned counsel for the petitioner submits that the Tribunal below has erred in law and fact in rejecting the claim of petitioner despite the fact that he had worked for more than 240 days in the twelve months preceding the date of his termination. It is submitted that the Tribunal below has failed to consider and appreciate the material/evidence available on record. It is further submitted that the other workmen, who had been given appointment after the petitioner, had not only been reinstated in service but their services had also been regularized; and in support of the same, learned counsel has referred to judgment dated 25.09.2012 (Annexure P-4) passed by this Court in CWP-23745-2011.

With the aforesaid submissions, learned counsel for the petitioner has prayed for setting aside impugned award dated 15.12.2008 (Annexure P-3) and grant of necessary relief to the petitioner.

10. Per contra, learned State counsel has opposed the prayer made

by learned counsel for the petitioner by raising a preliminary objection that the instant writ petition is time barred and suffers from gross delay and laches as the award impugned in the writ petition is dated 15.12.2008 (Annexure P-3) whereas the instant writ petition has been filed in April, 2015, i.e. after more than six years. It is submitted that even otherwise, the Tribunal below has considered the relevant material available on record and passed a well reasoned and justified award, which does not call for any interference by this Court. Accordingly, prayer for dismissal of the instant writ petition has been made.

11. I have heard learned counsel for the parties and perused the paper book with their able assistance.

12. Concededly, the impugned award was passed by the Tribunal below on 15.12.2008 (Annexure P-3) whereas the instant writ petition has been filed in April, 2015; which is after a period of more than six years from the date of passing of the impugned award.

13. 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 - - x -

16. Thus, the doctrine of delay and laches 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 -

-x-

”

13.

A perusal of the entire writ petition would indicate that no

plausible reasoning is forthcoming as regards the reason for delay in challenging the aforesaid impugned award dated 15.12.2008 (Annexure P-3). It appears that the petitioner has chosen to file the instant writ petition only after passing of judgment dated 25.09.2012 (Annexure P-4) in CWP-23745-2011; on the basis of which, the petitioner claims that the workmen, who had been given appointment after him, had not only been reinstated in service but their services had also been regularized, and therefore, he is also entitled for reinstatement in service after setting aside of the impugned award dated 15.12.2008 (Annexure P-3).

14. I have considered the aforesaid submission of petitioner made in the instant writ petition, however, I am of the considered view that the said plea cannot be accepted as “sufficient cause” for the delay in filing the writ petition after a period of more than six years of passing of the impugned award, more so, in view of the well settled position of 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.

15. In view of the above discussion, the instant writ petition challenging the impugned award dated 15.12.2008 (Annexure P-3), having been filed in April, 2015, suffers from gross delay and laches and the same is accordingly dismissed.

16. All pending application(s), if any, shall also stand closed.

13.12.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No