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

CWP-6156-2015 (O/M)

Date of decision : 6.7.2023

Satvir Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

**Present :- Mr. P.L. Verma, Advocate
for the petitioner.**

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

HARSH BUNGER, J.

Petitioner (Satvir Singh) has filed the instant writ petition challenging the order dated 17.8.2010 (Annexure P-2) whereby the Government of Haryana had declined to refer the dispute, as sought to be raised by the petitioner, vide his Demand Notice dated 8.3.2010 (Annexure P-1) under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act') against the General Manager, Haryana Roadways, Faridabad (respondent No. 3 herein). The petitioner further impugns the order dated 19.8.2014 (Annexure P-4) whereby the appeal filed by the petitioner against the aforesaid rejection order dated 17.8.2010 (Annexure P-2) was also rejected by the Special Secretary, Government of Haryana, Labour Department, Haryana.

2. Briefly, the case of the petitioner is that he was appointed as a Helper in the Haryana Roadways, Faridabad Depot on daily wages at DC rates

on 5.3.1990. The petitioner claims that his work and conduct remained satisfactory, however, respondent No. 2 in violation of Section 25-F of the I.D. Act had illegally terminated his services with effect from 20.5.1991 without complying with the provisions of Section 25-F of the I.D. Act. The petitioner submitted a Demand Notice dated 8.3.2010 (Annexure P-1) to respondent-Department under Section 2-A of the I.D. Act, however, the same was rejected, vide order dated 17.8.2010 (Annexure P-2) by holding as under :-

“ You had been informed that Government did not consider it a fit case to send for reference to labour court for adjudication, as on enquiry it was revealed that your service was terminated on 20.5.91 and you had raised demand on 15.4.2010 for your service dispute. That you had raised demand after delay of about 19 year after your termination of service and you had not given any reasonable explanation regarding this delay in raising demand notice. As per Hon'ble Supreme Court of India in case of Nadungarhi (Nadungadi) Bank Ltd Versus K.P. Madhwan Kutty (Madhavankutty) says on the ground of delay and latches your dispute can be rejected.”

3. Being dis-satisfied, the petitioner filed an appeal against the aforesaid order dated 17.8.2010 (Annexure P-2) before the Special Secretary, Government of Haryana, Labour Department, Haryana. However, the said appeal was also rejected, vide order dated 19.8.2014 (Annexure P-4). The relevant portion of order dated 19.8.2014 reads as under :-

“ You had been informed that Government did not consider it a fit case to send for reference to labour court for adjudication, as Government did not deem it fit to make any changes in his earlier decision, beside this there is no new fact

in your appeal as such Government did not send the same for adjudication to labour court. On the above ground this appeal is hereby rejected.

*Ends. I.D./30724-27 for Special Secretary, Government of
Dt. 19.8.14 Haryana, Labour Department, Haryana”*

4. Accordingly, the instant writ petition has been filed.
5. Learned counsel for the petitioner has contended that the petitioner is not so qualified and he was unable to understand his legal right/claim. On the advise given to him, he challenged his termination before the local Civil Court, Faridabad, however, his civil suit was dismissed. Thereafter, he filed CWP-1758-2008 before this Court, which was also withdrawn on 6.2.2008 with a view to pursue his legal notice.

Learned counsel for the petitioner has placed reliance upon the judgment rendered by Hon'ble the Supreme Court in Raghubir Singh Versus General Manager, Haryana Roadways, Hissar 2015 (1) RSJ 246 to contend that if there was a certain delay and laches on the part of the workman in raising the dispute and getting the same referenced for adjudication, the Labour Court was statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits.

6. On the other hand, learned counsel appearing for the State of Haryana has contended that the judgment rendered by Hon'ble the Supreme Court in Raghubir Singh's case (supra) is not applicable to the facts and circumstances of the instant case. It is further contended that the industrial dispute sought to be raised by the petitioner, has been raised after a lapse of 19 years from the date of termination of his services and the appropriate

Government was well within its jurisdiction to prima facie examine as to whether the industrial dispute exists and thereafter decide whether to refer the same for adjudication to the Labour Court or not. It is further contended that the services of the petitioner were terminated on 20.5.1991 and thereafter the petitioner filed a Civil Suit before a local Civil Court in Faridabad, which was ultimately dismissed and thereafter the petitioner filed CWP-1758-2008 before this Court for regularization of his services. However, vide order dated 6.2.2008 passed by this Court in CWP-1758-2008, the petitioner withdrew the writ petition with a view to pursue his legal notice and that too without any liberty being granted by this Court.

Learned State counsel has relied upon the judgment rendered by Hon'ble the Supreme Court in the case of The Nadungadi Bank Limited Versus K.P. Madhavankutty AIR 2000 (SC) 839 to contend that after 19 years from the date of termination of the services of the petitioner, the dispute allegedly raised by the petitioner could not have been referred for adjudication to the Labour Court being barred by delay and latches. Accordingly prayer has been made for dismissal of the instant writ petition.

7. I have heard learned counsel for the parties and have also perused the paper book.

8. Concededly, the services of the petitioner were terminated on 20.5.1991. As per the petitioner, he had challenged his termination before the Civil Court, Faridabad, which is stated to have been dismissed, however, the copy of the said order has not been placed on record. Further, the writ petition (CWP-1758-2008) was also filed before this Court, which was

withdrawn on 6.2.2008 with a view to pursue his legal notice and no liberty was granted by this Court. Thereafter, it appears that the demand notice dated 8.3.2010 (Annexure P-1) under Section 2A of the I.D. Act was submitted by petitioner, which came to be rejected, vide order dated 17.8.2010 (Annexure P-2) and even appeal filed against the said rejection order was also dismissed, vide order dated 19.8.2014 (Annexure P-4) passed by the Special Secretary, Government of Haryana, Labour Department, Haryana.

9. Apparently, the demand raised by the petitioner after 19 years from the date of his termination on 20.5.1991 was rejected primarily on the ground of delay and laches by placing reliance upon the judgment rendered by Hon'ble the Supreme Court in The Nadungadi Bank Limited's case (supra) wherein it was held as under :-

“Law does not prescribe any time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after lapse of about 7 years of order dismissing the respondent from service”

10. As regards the reliance placed by the petitioner upon the judgment of Hon'ble the Supreme Court in Raghubir Singh's case (supra), it is observed that the said judgment is not applicable to the facts and circumstances of the instant case. In the said case, the demand notice was referred by the appropriate Government to the Labour Court for its adjudication and it was

the Labour Court which rejected the claim on the ground of delay and latches, whereas in the instant case, it is the appropriate Government which came to the conclusion that the dispute raised by the petitioner was not fit for reference as the industrial dispute was not existing on the date of demand and there was an inordinate delay in raising the demand.

11. In view of the aforementioned circumstances and also the law laid down in the case of *The Nadungadi Bank Limited* (supra), the Demand Notice dated 8.3.2010 (Annexure P-1) of the petitioner against his termination order dated 20.5.1991, clearly suffers from delay and latches and the same was rightly rejected by the Authorities below by not referring the dispute for adjudication to the Labour Court. Hence, the instant petition deserves to be dismissed and the same is accordingly dismissed.

12. All pending applications (if any) shall stand closed.

(HARSH BUNGER)
JUDGE

6.7.2023
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No