

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

CWP-30040-2017 (O&M)
Date of Decision: 31.10.2023

NARESH KUMAR

...Petitioner

Versus

THE PRESIDING OFFICER, LABOUR COURT,
AMBALA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Viney Saini, Advocate
for the petitioner.

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

HARSH BUNGER, J. (ORAL)

1. Petitioner (Naresh Kumar) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ of *certiorari* for quashing of impugned Award dated 04.11.2008 (Annexure P-1) passed by the learned Labour Court, Ambala (here-in-after referred to as 'the Labour Court'); whereby the reference of industrial dispute raised by the petitioner regarding termination of his services has been answered against him.

A further prayer has been made by the petitioner for directing respondents No.2 to 4 (here-in-after referred to as 'the respondents-Management') to reinstate the petitioner-workman in service along with other consequential benefits.

2. Briefly, the petitioner raised an industrial dispute regarding termination of his services. The said dispute was referred for adjudication to the learned Labour Court below.

3. In the claim statement filed by the petitioner, he stated that he

was appointed as a Timber Watcher in the year 1998 by the respondent-Management on daily wage basis and he worked at different places upto January, 2006. Petitioner claimed that during his tenure, his work and conduct remained good and satisfactory. Petitioner stated that earlier he filed a writ petition i.e. **CWP-12653-2005** before this Court, seeking regularization of his services in accordance with the Haryana Government Policy dated 01.10.2003 and the said writ petition was disposed of vide order dated 16.08.2005 with a direction to the respondents to take a decision on the representation of the petitioner. Petitioner claimed that thereafter, the respondents-Management terminated his services in January, 2006 and that he was working under the contractor of the respondents-Management. Petitioner claimed that he had worked continuously and had completed 240 days in a calendar year and as per the Government policy dated 01.10.2003, he was entitled for regularization in service as he had completed three years of service upto 30.09.2003. Accordingly, the petitioner prayed for reinstatement in service with continuity and full back wages.

4. The afore-said claim of the petitioner was contested by the respondents-Management by submitting that the petitioner was never engaged as a daily wage worker in the year, 1998 and no appointment letter was issued to him by the respondents-Management. It was further stated that as per the decision of this Court in **CWP-12653-2005**, the representation of the petitioner was decided. It was categorically stated by the respondents-Management that the petitioner-workman never completed 240 days during his service and as per the report of the Range Forest Officer, Production Range, Pehowa, the petitioner had worked only for 11 days during the period from 03.01.2003 upto 11.02.2003; therefore, the petitioner was not

entitled to regularization of his services. Accordingly, prayer for dismissal of the claim petition was made.

5. On the basis of the pleadings of the parties, the learned Labour Court below framed the following issues :-

“1. Whether the termination of services of the workman is liable to be set-aside being wrong, illegal, null and void etc. and the workman is entitled to be reinstated in service with full back wages and all the benefits including the continuity of service? OPW

2. Whether the workman has no locus-standi to file the present claim statement? OPM

3. Whether the claim statement is not maintainable in the present form? OPM

4. Whether the petitioner-workman is stopped from filing the claim statement by his own act and conduct? If so its effect ? OPM

5. Whether the workman has no cause of action to file the present claim statement? OPM

6. Relief.”

6. The parties led their respective evidence in support of their claim. The learned Labour Court below, vide impugned Award dated 04.11.2008 (Annexure P-1), rejected the claim of the petitioner.

7. In the afore-mentioned circumstances, the present petition has been filed before this Court.

8. Learned counsel for the petitioner submits that the learned Labour Court below has erred in law and fact in rejecting the claim of the 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 learned Labour Court below has failed to consider and appreciate the material/evidence available on record. It is further submitted that despite the

petitioner-workman having been served with the respondents-Management from 1998-2006, he was not appointed against the sanctioned or regular post.

With the afore-said submissions, learned counsel for the petitioner has prayed for setting aside the impugned Award dated 04.11.2008 (Annexure P-1) passed by the learned Labour Court below and to grant the necessary relief to the petitioner.

9. Per contra, learned State counsel has opposed the prayer made by learned counsel for the petitioner by submitting 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 04.11.2008 (Annexure P-1), whereas the instant writ petition has been filed in November, 2017 i.e. after almost nine years. It is submitted that even otherwise, the learned Labour Court 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.

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

11. Concededly, the impugned award was passed by the learned Labour Court on 04.11.2008 (Annexure P-1), whereas the instant writ petition has been filed in November, 2017 which is after a period of almost nine years from the date of passing of the impugned award.

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.”

13. 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- ”

14. 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 04.11.2008 (Annexure P-1) i.e. after nine years. In the absence of any sufficient cause for delay in filing in writ petition and also considering the aforesaid 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, the instant petition suffers from gross delay and laches.

15. In view of the above discussion, the instant writ petition challenging the impugned award dated 04.11.2008 (Annexure P-1), having been filed in November, 2017 suffers from gross delay and laches and the same is accordingly dismissed.

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

October 31, 2023
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(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No