

2023:PHHC:118585

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

**CWP-762-2020
Date of Decision: 08.08.2023**

Kulwant Singh

..... Petitioner

Versus

The Presiding Officer, Labour Court, Punjab, Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Harnek Singh, Advocate
for the petitioner.

Mr. Vipin Pal Yadav, Addl. A.G., Punjab.

HARSH BUNGER J. (ORAL)

1. Petitioner has filed the present petition under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned award dated 23.01.2007 (Annexure P-1) passed by respondent No.1 – Presiding Officer, Industrial Tribunal, Punjab, Chandigarh in Reference No.45 of 2003, dismissing the same on the basis of delay and laches. A further prayer has been made for quashing the orders dated 15.07.1977 (Annexure P-2), 24.07.1981 (Annexure P-3), 04.03.1983 (Annexure P-4) and 03.08.1983 (Annexures P-5 and P-6), vide which increments of the petitioner were stopped with cumulative effect, without holding any enquiry.

2. In the aforesaid Reference No.45 of 2003, case of the

petitioner-workman was that he was working as a Conductor on regular/permanent basis with the Punjab Roadways Depot at Ludhiana. He joined the service on 01.05.1977. It was claimed that the Department had stopped the increments of petitioner with cumulative effect vide orders dated 15.07.1977, 24.07.1991, 04.03.1992, 03.08.1983, 19.05.2009 and 28.07.1999, without holding any enquiry or serving any notice or charge-sheet upon the workman (petitioner herein). However, the aforesaid reference came to be dismissed by the Presiding Officer, Industrial Tribunal, Punjab, Chandigarh vide award dated 23.01.2007 (Annexure P-1) by holding as under:-

“11. After perusing the record above that last punishment was inflicted upon the workman Kulwant Singh vide order dated 28.7.1989 vide which one increment was stopped. On behalf of the workman the Union has issued a demand notice on 4.5.2002 and the matter was ultimately referred to the tribunal by the State Govt. vide order dated 13.10.2003. Thus the demand has been raised after lapse of more than 12 years and reference has been made on 13.10.2003 i.e. after 13 years. In order of Chief Engineer Ranjit Sagar Dam case the Hon'ble Apex Court has held as under.

“Though there is no provision in the industrial Dispute Act, 1947, under the limitation may be applied to the reference under section 10 however belated claim will not be entertained and referred by the appropriate Govt. after lapse of long time of 4/5 years no Industrial Dispute can be said to be existing for which a reference can be made under section 10.

So far as delay in seeking the reference is concerned no formula of universal application can be laid down it would depend on facts of each individual case.

However, certain of observation made by this court.

Paragraph 6 as follows

6" Law does not prescribe any time limit for the appropriate government to exercise its power under section 10 of the Act. It is not that this provision oath be exercised at any point of time and to review matter which as since been settled. Power appears to us to be no ratinal basis on which the central about seven paper of the order dismissing respondents from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended, A dispute which is state could not be the subject matter of reference under section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to the of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made.

12. In view of the law laid down by the Hon'ble Supreme Court in the aforesaid case, since the demand has been made after a lapse of 12 years and the reference has been made thereafter, it cannot be said that there existed any industrial dispute at the time when the reference was made.

13. The workman has not offered any explanation of this delay in raising the demand. By the lapse of time, the dispute has become and accordingly the reference is not maintainable.

14. In view of the aforesaid finding there is no need to enter into discussion whether the punishment imposed upon the workman made in with the rules or not. This issue is accordingly decided in favour of respondents and against the workman.

15. In the result the reference is answered that the workman is not entitled to any relief."

A perusal of above extracted findings would manifest that the

claim of workman was declined on account of delay of 12 years in raising

the demand.

3. Further, the instant writ petition has been filed by the petitioner in January, 2020, i.e. after a period of 13 years from the date of impugned award dated 23.01.2007. A perusal of the writ petition would reveal that no explanation is forthcoming for challenging the aforesaid award dated 23.01.2007 (Annexure P-1), after a lapse of 13 years. Apparently, the writ petition suffers from gross delay and laches on the part of petitioner. 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 -

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 - ”

4. Further, 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 has held as under:-

“ - 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.*

- x - x -"

5. Keeping in view the aforesaid discussion, I find that the instant writ petition suffers from the vice of gross delay and laches and the same is accordingly dismissed.

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

08.08.2023

Apurva

**(HARSH BUNGER)
JUDGE**

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|--------------------------------|--------|
| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |