

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

CWP-28409-2023 (O&M)
Date of Decision: 18.12.2023

GRAM PANCHAYAT VILLAGE SALEMPUR KOHI THROUGH
ITS SARPANCH BEEJO DEVI

...Petitioner

Versus

COMMISSIONER UNDER EMPLOYEES COMPENSATION ACT,
YAMUNA NAGAR, CIRCLE-II AT LABOUR COLONY JAGADHARI
AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Divyam Singh, Advocate
for Mr. Vikram Singh, Advocate
for the petitioner.

HARSH BUNGER, J. (ORAL)

1. Petitioner (Gram Panchayat Village Salempur Kohi) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of *certiorari* for setting aside the Award dated 13.09.2017 (Annexure P-4) passed by the Court of Commissioner under Employees Compensation Act, Yamuna Nagar Circle-II at Labour Colony Jagadhri.

2. Briefly, respondent No.2, herein (Shyam Lal) filed an application under the Employees Compensation Act, on the plea that the petitioner-Gram Panchayat Village Salempur Kohi had started the work in the month of May 2012 as per the government policy for lifting the mud/soil from the fields of the people, to be filled in the pond near the Government School and for the said work, the petitioner-Gram Panchayat had employed Shyam Lal (respondent No.2) and other labourers and they were paid

Rs.186/- per day as remuneration. It was stated by respondent No.2 that on

17.05.2012, one Gaurav Kumar along with other labourers, on the directions of Sarpanch Suresh Kumar, was lifting the mud from the mount hill like fields of Gurnam Singh and by putting it in the tractor trolley were filling the same in the pond and at about 11-12 p.m., the heap of the mud all of a sudden fell on the labourers, as a result of which, the labourers namely, Gaurav Kumar, Ravi Kumar, Rania Ram, Vijay and Sham Lal, who were working there, were pressed under the heap of mud but they were saved by the other labourers working there with great difficulty. It was stated that Gaurav Kumar, Ravi Kumar, Rania Ram and Vijay Kumar died on the spot and respondent No.2 was taken to the Civil Hospital, Yamuna Nagar and as his condition was serious, he was taken to PGIMER, Chandigarh. It was stated that at the time of accident, respondent No.2 was 26 years old and due to the fault and negligence of the petitioner-Gram Panchayat, the accident had occurred and respondent No.2 had suffered injuries; wherein, the backbone of respondent No.2 was fractured, for which, he was treated at PGIMER, Chandigarh and thereafter, at Civil Hospital, Yamuna Nagar. Respondent no.2 claimed that he was not able to walk and is bed-ridden and he has to engage a person to look after him. It was further claimed that he had spent Rs.3 lacs on his medical expenses and has become totally disabled and is unable to do any work.

3. On the afore-said pleas, the petition (Case No.10/EC/2012) was filed by respondent No.2, herein, which came to be allowed by the Commissioner (respondent No.1) under Employees Compensation Act, Yamuna Nagar, Circle-II at Labour Colony, Jagadhri, vide order dated 13.09.2017 (Annexure P-4) by observing as under :-

“Therefore very fairly, the accident of the claimant occurred when he was on his job contributing for the said

mud work assigned to him alongwith the other labourers by the respondent as per his directions and he met his ill fate during the course of employment of the said respondent i.e. the Sarpanch of said Gram Panchayat Suresh Kumar.

Accordingly the said respondent stands liable to pay the amount of compensation in respect of the disability sustained by the claimant. Therefore the petitioner is entitled to the amount of claim in respect of 100% disability sustained by him as per Ex. Aw-5/A in view of the discussions as made above in detail all the issues are decided in favour of the claimant and against the respondent.

Keeping in view the disability of the claimant as per Ex. Aw-5/A to be 100% his age also in view there of the said document to be 26 years and the wages of the claimant taken as the wages as per the minimum wages Act during the relevant period Rs.4847.17, and the factor as per schedule I of the relevant Act taken as 215.28 the amount of compensation comes out to Rs.627000/- (Six Lac twenty seven thousand only).

Therefore the respondent is ordered to pay with in a month from the date of this order an amount of Rs.627000/- (Six Lac twenty seven thousand only) along with an interest @ 12% PA after one month of the date of accident i.e. 16-06-2012 to the petitioner till realization.

However in the interest of fair justice the respondent stands at liberty to indemnify the amount paid to the claimant from the resent Gram Panchayat Salempur Kohi.

No order as to cost.”

4. The instant writ petition has been filed by petitioner (Gram Panchayat Village Salempur Kohi) against the aforesaid order dated 13.09.2017 (Annexure P-4) passed by the Commissioner (respondent No.1)

under Employees Compensation Act, Yamuna Nagar, Circle-II at Labour Colony, Jagadhri.

5. I have heard learned counsel for the petitioner and have perused the paper-book with his able assistance.

6. At the outset, it is observed that the afore-said order was passed on 13.09.2017 and the instant writ petition has been filed in December, 2023 i.e. after more than six years. The only explanation given by the petitioner for filing the writ petition after the delay is contained in para No.13 thereof, which reads as under :-

13. That also the delay in filing the present writ petition is due to that the present Sarpanch got to be elected as Sarpanch of the Village in the year 2022 and it came to notice of the petitioner only when the Gram Panchayat was served the summons of the Execution Petition, hence the delay has taken place in filing the writ petition. That also it is submitted that neither the ADC, Yamuna Nagar nor Block Development and Panchayat were arrayed as a party in the claim petition which could substantiate the claim of the respondent No.2 and in the absence of the same there was no occasion for the respondent No.1 to pass the impugned award."

7. I have considered the afore-said reasoning for the delay caused in filing the writ petition; however, I am not convinced to the same. No material particulars of the date, on which the petitioner-Gram Panchayat came to know about the impugned order, is forthcoming and neither it is mentioned as to when the summons of the execution petition were received by the petitioner-Gram Panchayat or atleast the present incumbent Sarpanch. Apart from the general and vague averments in para No.13 of the petition,

no other reasoning worth acceptance has been stated in the petition.

8. 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 -
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 - ”

9. I find that the general and vague averments in para No.13 of the petition for seeking condonation of delay of about six years cannot be accepted as “sufficient cause” in view of the well settled 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.

10. In view of the above discussion, the instant writ petition challenging the Award dated 13.09.2017 (Annexure P-4), having been filed

in the year-2023 suffers from gross delay and laches and the same is accordingly dismissed.

11. All pending application/s, if any, shall stand closed.

December 18, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No