



CWP-9934-2024

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

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CWP-9934-2024

Date of decision: 08.08.2024

SURESH KUMAR

....PETITIONER

Vs.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Sanjeev Majra, Advocate  
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

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**JAGMOHAN BANSAL, J (ORAL)**

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 31.08.2017 (Annexure P-1) whereby Labour Court, Ambala has answered reference against him.

2. The petitioner claims that he has worked with respondents-Forest Department, Haryana from 1996 to 2016 and respondent has retrenched him without complying with Sections 25-B and 25-F of Industrial Disputes Act, 1947. The Labour Court has rejected claim of the applicant on the ground that he had worked till 2010 under MGNREGA Scheme which was no more implemented after 2010.

3. The Court has further held that petitioner could not prove that he had worked 240 days in the preceding year, thus, he is not entitled to protection extended by Section 25-F of Industrial Disputes Act, 1947. The relevant extracts of order dated 31.08.2017 are reproduced as below:-

*“The Hon'ble High Court of Punjab and Haryana has passed  
the judgment in CWP No. 3545 of 2011 in Banwari Lal Versus*



*State of Haryana and other decided on 2.7.2014 and laid stress on the fact that Section 25-F and 25-B specifically provide that preceding the date of termination, the workman has to be employed for minimum 240 days in twelve months preceding the alleged date of termination to attract the provisions of section 25-F of the Act. For this reliance has been placed on the authority in case **Surender Nagar District Panchayat V/s Dahyabhai Amarsinh, 2005 (8) SCC 750** in which the burden of proof was on the workman to prove that he had worked for 240 days preceding twelve months prior to his alleged retrenchment but he has failed to prove the completion of 240 days working with the respondent.*

*In view of the provisions of the MGNREGA scheme under which no suit, prosecution or other legal proceedings shall lie against respondents by the workman who has worked under the Central Government under the MGNREGA scheme as the MGNREGA scheme ended in the year 2010.*

*In view of the aforesaid discussion, the findings on issue no. 1 are answered against the workman and in favour of the respondents.”*

4. The petitioner is claiming ignorance of his appointment through Contractor. He is unable to dispute the fact that Labour Court has rejected his claim on the ground that he failed to prove that he had worked for 240 days in the preceding 12 months prior to his alleged retrenchment. As petitioner has failed to prove that he had worked with respondent during preceding 12 months, thus, he cannot claim protection guaranteed by Section 25-F of Industrial Disputes Act, 1947.

5. There is another aspect of the matter. The impugned order was passed on 31.08.2017 and present petition has been preferred in 2024 i.e. after 7 years from the date of passing of impugned order. There is no plausible



explanation for the inordinate delay except lame excuse that the petitioner is an illiterate person and he was unaware about the law of limitation.

6. A two Judge Bench of Supreme Court recently in '**Mrinmoy Maity Vs. Chhanda Koley and others**' 2024 SCC OnLine SC 551 has held that High Court ought to dismiss petition on the ground of delay and laches where there is no explanation of delay. An applicant who approaches the Court belatedly or in the other words sleeps over his rights for a consideration period ought not to be granted the extraordinary relief by writ Courts. Delay defeats equity. High Court may refuse to invoke its writ jurisdiction if laxity on the part of applicant has allowed the cause of action to drift away and attempts are made to rekindle the lapsed cause of action. Multiple communications cannot create cause of action. The relevant extracts of the judgment are reproduced as below:

*“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.*

*10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the*



*court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.*

*11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and latches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and latches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and latches on the part of the applicant in approaching a writ court.”*

7. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be dismissed on merit as well as delay. Accordingly, dismissed.

08.08.2024  
manoj

[JAGMOHAN BANSAL]  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |