

2024:PHHC:118388



CWP-13157-2022 1

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

202

CWP-13157-2022

Date of Decision : 10.09.2024

THE FAZILKA CENTRAL COOPERATIVE BANK LTD.

.... PETITIONER

V/S

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BATHINDA AND  
ANR

.... RESPONDENTS

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

Present : Mr.K.D.S.Sidhu, Advocate  
for the petitioner.

Mr. Ajay Pal Singh, Advocate and  
Ms. Amandeep Kaur, Advocate  
for respondent No.2.

\*\*\*\*

**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 22.10.2018 (Annexure P-8) whereby Labour Court has ordered to execute award dated 14.11.1991.

2. The respondent No.2-workman was working with petitioner-bank as clerk and his services came to be terminated w.e.f. 12.07.1979. On the application of workman, the matter came to be referred to Labour Court which vide award dated 14.11.1991 ordered to reinstate him with continuity of service and back wages. The petitioner challenged aforesaid



CWP-13157-2022 2

award before Civil Court by way of civil suit. The said suit came to be dismissed on 21.03.1997. Though the petitioner was pursuing civil suit, yet on the intervention of Labour Court permitted workman to rejoin his duty on 12.03.1996. The workman from 12.03.1996 till his superannuation worked without interruption. The workman filed an application under Section 33-C(2) of Industrial Disputes Act (for short 'ID Act') before the Labour Court on 06.12.2010 seeking execution of award dated 14.11.1991. The petitioner raised question of limitation, however, Labour Court without adverting with said question allowed application of the workman and ordered to execute award dated 14.11.1991.

3. Mr.K.D.S.Sidhu, Advocate submits that award passed in 1991 could not be subjected to application under Section 33-C(2) of ID Act in December' 2010, though no limitation period has been prescribed under Section 33-C(2) of ID Act. No execution application as per Limitation Act can be filed beyond 12 years and Labour Court allowed application of workman which was filed after 19 years from the date of award.

4. Per contra, Mr. Ajay Pal Singh, Advocate submits that the petitioner partially complied with award on 11.03.1999 and he was promoted to higher post. The co-workers challenged his promotion by way of civil suit which was finally dismissed on 14.01.2010. As soon as the civil suit was dismissed, he preferred application under Section 33-C(2) of ID Act. No limitation period has been prescribed under Section



33-C(2) of ID Act and this Court cannot import any limitation period in the said Section. The intention of legislature was clear. By not specifying any limitation period in the said Section, the legislature has granted liberty to workman to move application under said Section at any point of time.

5. I have heard the arguments of counsel for the parties and perused the record.

6. The entire litigation hangs around reading of Section 33-C which is reproduced as below :

***“33-C. Recovery of money due from an employer.—***

*(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter V-A or Chapter V-B, the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:*

*Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:*

*Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied*



*that the applicant had sufficient cause for not making the application within the said period.*

*(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government within a period not exceeding three months:*

*Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.*

*(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the Commissioner and other circumstances of the case.*

*(4) The decision of the Labour Court shall be forwarded by it to the appropriate Government and any amount found due by the Labour Court may be recovered in the manner provided for in sub-section (1).*

*(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of*



*money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.*

*Explanation.—In this section “Labour Court” includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.”*

7. From the perusal of Section 33-C(1) of ID Act, it is evident that a period of one year has been prescribed to file application whereas no limitation period has been prescribed under Section 33-C(2) of ID Act.

8. Mr. Ajay Pal Singh, counsel for respondent is correct while submitting that Court cannot import limitation period where it is not prescribed, however, it is also a settled proposition of law that where limitation period has not been prescribed, reasonable period of limitation is applicable. What would be reasonable period of limitation, has to be examined by Courts. No hard and fast formula can be prescribed and reasonable period of limitation is examined in the light of facts and circumstances of each case. Section 33-C of ID Act does not specifically say that it is execution but from the language and judgments of Supreme Court, it is evident that proceedings under Section 33-C of ID Act are sort of execution. No period of limitation has been prescribed under Section 33-C(2) of ID Act, however, every workman or employer is bound to act within reasonable period of limitation. In the absence of reasonable period of limitation, there would be no end to litigation and parties would approach Court at any point of time at their sweet will.



9. A Division Bench of this Court in *M/S The Bhatinda Distrcit Cooperative Milk Producers Union Ltd, Bhatinda versus State of Punjab and others in CWP No. 15477 of 2006* has held that in case no period of limitation is prescribed, reasonable period of limitation would be taken into consideration. This view was upheld by Supreme Court in *State of Punjab v. Bhatinda District Coop. Milk Producers Union Ltd., (2007) 11 SCC 363.*

10. Supreme Court in *The Government of India Versus The Citadel Fine Pharmaceuticals, Madras and others, 1989 (42) ELT 515 (SC)* while referring to Rule 12 of the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956 has held that in absence of any period of limitation, authority has to exercise power within reasonable period. The relevant extracts of the judgment are reproduced as below:

*“In the absence of any period of limitation it is settled that every authority is to exercise the power within a reasonable period. What would be reasonable period would depend upon the facts of each case.”*

11. In *Ibrahimpattam Taluk Vyavasaya Collie Sangham v. K. Suresh Reddy and Others, AIR 2003 SC 3592*, while referring to Section 50-B(4) of the Andhra Pradesh (Telengana Area) Tenancy and Agricultural Lands Act, 1950, expression "at any time" for exercise of suo motu power was interpreted to mean within "reasonable time". The relevant extracts of the judgment are reproduced as below:

*“9. ...Use of the words 'at any time' in Sub-section (4) of Section 50B of the Act only indicates that no specific period of limitation is prescribed within which*



*suo motu power could be exercised reckoning or starting from a particular date advisedly and contextually. Exercise of suo motu power depended on facts and circumstances of each case. In cases of fraud, this power could be exercised within a reasonable time from the date of detection or discovery of fraud. While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as Land Ceiling Act). Hence, it appears without stating from what date the period of limitation starts and with what period the suo motu powers is to be exercised, in Sub-section (4) of Section 50-B of the Act, the words 'at any time' are used so that the suo motu power could be exercised within reasonable period from the date of discovery of fraud depending on facts and circumstances of each case in the context of the statute and nature of rights of parties. Use of the words 'at any time' in Sub-section (4) of Section 50B of the Act cannot be rigidly read letter by letter. It must be read and construed contextually and reasonably. If one has to simply proceed on the basis of dictionary meaning of words 'at any time', the suo motu power under Sub-section (4) of Section 50B of the Act could be exercised even after decades and then it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties, that too, over immovable properties. Orders attaining finality and certainty of*



*the rights of the parties accrued in the light of the orders passed must have sanctity. Exercise of suo motu power 'at any time' only means that no specific period such as days, months or years is prescribed reckoning from a particular date. But that does not mean that 'at any time' should be unguided and arbitrary. In this view, 'at any time' must be understood as within a reasonable time depending on the facts and circumstances of each case in the absence of prescribed period of limitation."*

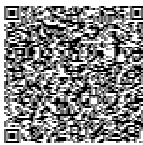
12. In **State of H.P. v. Rajkumar Brijender Singh AIR 2004 SC 3218** referring to Section 20 of the H.P. Ceiling on Land Holdings Act, 1973, conferring suo motu power on the Financial Commissioner, interpreting the words "at any time", it was held that such power had to be exercised within a reasonable time. The relevant extracts of the judgment are reproduced as below:

*"6. ...It is true that Sub-section (3) provides that such a power may be exercised at any time but this expression does not mean there would be no time-limit or it is in infinity. All that is meant is that such powers should be exercised within a reasonable time. No fix period of limitation may be laid but unreasonable delay in exercise of the power would tend to undo the things which have attained finality. It depends on the facts and circumstances of each case as to what is the reasonable time within which the power suo motu action could be exercised. For example in this case, as the appeal had been withdrawn but the Financial Commissioner had taken up the matter in exercise of his suo motu power, well it could be open for the State*



*to submit that the facts and circumstances were such that it would be within reasonable time but as we have already noted the order of the Collector which has been interfered with was passed in January, 1976 and the appeal preferred by the State was also withdrawn sometime in March 1976. The learned Counsel for the appellant was not able to point out such other special facts and circumstances by the reason of which it could be said that exercise of suo motu power after 15 years of the order interfered with was within a reasonable time. That being the position **in our view**, the order of the Financial Commissioner stands vitiated having been passed after a long lapse of 15 years of the order which has been interfered with. Therefore, while holding that the Financial Commissioner would have power to proceed suo motu in a suitable case even though an appeal preferred before lower appellate authority is withdrawn may be by the State. Thus the view taken by the High Court is not sustainable....”*

13. In the instant case, the award was passed in 1991 and the petitioner challenged said award before Civil Court in 1995. The civil suit came to be dismissed in 1997. There was stay in favour of the petitioner. As soon as civil suit was dismissed, the petitioner was bound to implement the award. The award was virtually implemented in May’ 1996 because workman was permitted to re-join his duty. He was further paid arrears in March’ 1999, thus, for all purposes, the award as per understanding of petitioner was complied with in 1999. The workman opted to remain silent thereafter and all of sudden woke up from slumber



CWP-13157-2022            10

in 2010 and filed application before Labour Court seeking execution of award passed in 1991. By no stretch of imagination, the said application could be treated as filed within reasonable period of limitation.

14.            In the wake of above discussion and findings, this Court is of the considered opinion that application filed under Section 33-C(2) of ID Act before Labour Court was filed beyond a reasonable period of limitation, thus, it was liable to be dismissed. Accordingly, the impugned order is hereby set aside.

15.            Disposed of accordingly.

**(JAGMOHAN BANSAL)**  
**JUDGE**

**10.09.2024**  
*anju*

Whether speaking/reasoned            : Yes/No  
Whether Reportable                        : Yes/No  
,