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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on : 09.01.2024

Chandigarh Transport Undertaking and another

. . . Petitioner(s)

Versus

Nachhatar Singh and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Suman Jain, Addl. Standing Counsel and
Ms. Shubreet Kaur, Jr. Panel Counsel and
Mr. Rishabh Jain, Advocate, for the petitioner – CTU.

Mr. Amit Kaith, Advocate
for respondent No.1.

SANJAY VASHISTH, J. (Oral)

1. Present writ petition has been filed by the Management i.e. Chandigarh Transport Undertaking (petitioner No.1) and General Manager, Chandigarh Transport Undertaking, Chandigarh (petitioner No.2), challenging the award dated 14.07.2015 (Annexure P-1), passed by the learned Labour Court, UT, Chandigarh. In pursuance to the demand notice, a reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 (for brevity, 'the Act'), has been answered in favour of the workman (respondent No.1 herein).

2. While making the submissions, learned counsel for the petitioners submits that the claim raised by the workman (respondent No.1) is time barred. The order, subject matter of the reference, was passed by the petitioners/employer on 24.10.2003, and the demand notice was served by the workman (respondent No.1) on 21.10.2019, i.e. after about six years.

3. Mr. Suman Jain, Addl. Standing Counsel for UT, Chandigarh, submits that as per Section 2A(3) of the Act, any such claim could be raised by

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the workman within a period of three years, from the passing of any order, by which the workman is aggrieved.

4. On the other hand, learned counsel for respondent No.1 (workman) submits that the said argument is misconceived, because Section 2A(3) of the Act, specify the period of limitation of three years only in a situation, where, orders are passed by the employer/management regarding discharge/dismissal/retrenchment or otherwise termination of services of a workman, as specified in Sub-Section 1 of Section 2A of the Act. Thus, period of limitation prescribed under Section 2A(3) of the Act, would not be applicable in the facts and circumstances of the present case.

5. Another explanation given by learned counsel for respondent No.1 is that there was an order of recovery of Rs.1.00 lakh, issued by the petitioners (employer-management), and as per the said order, an amount of Rs.2,000/- per month, was recovered from the salary of the workman (respondent No.1). Therefore, learned counsel for respondent No.1 (workman) submits that the workman acquires cause of action on every month being it recurring cause of action.

6. After taking note of the submissions addressed by both the sides, and a bare reading of Section 2A(3) of the Act, this Court is of the view that the arguments addressed by learned counsel for respondent No.1 (workman), is worth endorsing/approval. Undoubtedly, Section 2A(3) of the Act, was inserted on 15.09.2010, and the demand notice is dated 21.10.2009. Moreover, the limitation period is specified in the Act, and nowhere, the order of recovery of any amount or penalty is part of the said provision of law.

7. This Court is also in concurrence with the argument that the deduction of Rs.2,000/- per month, from the salary of the workman (respondent No.1), is the recurring loss suffered by the workman. Therefore, same being

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recurring cause of action, claim raised by the workman (respondent No.1) cannot be declared as a time barred claim.

8. Even otherwise, the reason of passing of recovery order, is the of damage to the vehicle of the Chandigarh Transport Undertaking (CTU), which was being driven by the workman (respondent No.1). Due to the accident caused while using the said vehicle by the workman (respondent No.1), he had faced a criminal trial also, in which, he was acquitted by the criminal Court vide judgment dated 19.08.2009.

9. In view of the submissions addressed by counsel for respondent No.1 (workman), and the reason recorded here-in-above, I do not find any ground to deviate from the findings recorded in the impugned award. Accordingly, present writ petition stands dismissed and the impugned award dated 14.07.2015 (P-1), passed by the learned Labour Court, UT, Chandigarh, is affirmed.

10. Besides above, it is also clarified that vide order dated 03.06.2016, passed by this Court, execution proceedings were stayed subject to deposit of award amount of Rs.1.00 lakh in the Registry of this Court. Mr. Suman Jain, Addl. Standing Counsel for UT, Chandigarh, submits that in compliance thereto, said amount had already been deposited by the petitioners, which may be allowed to be released to respondent No.1 (workman), towards full & final settlement of the award amount.

Ordered accordingly.

(SANJAY VASHISTH)
JUDGE

January 09, 2024

J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~

Whether Reportable: ✓ Yes/~~No~~