

2024:PHHC:099642



CWP-18538-2024

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

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Date of Decision : 05.08.2024

KALA RAM

.... PETITIONER

V/S

THE EXCISE & TAXATION DEPARTMENT PUNJAB PATIALA
AND OTHERS

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present :- Mr.Deepak Gupta, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of award dated 03.05.2023 whereby Industrial Tribunal, Bathinda has rejected his claim.

2. The Tribunal has rejected claim of the petitioner on the ground that he was terminated on 01.07.1996 whereas he lodged claim in 2013 and there is no explanation for delay of 17 years. The Tribunal has further noticed that he was temporarily appointed for 89 days because



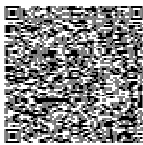
regular employee was on leave. As soon as the regular employee joined, the petitioner was relieved. The findings recorded by Tribunal are reproduced as below :

“The respondents/management on the other hand contested the claim of the workman with the assertion that the workman was appointed on temporary basis for 89 days in place of Sh. Sadhu Ram, who was permanent employee of the respondents/management, as he was on earned leave. When Sadhu Ram rejoined his duty, the workman was relieved. The respondents/management have further raised an objection with regard to the delay in filing the claim and claimed is said to be barred by delay and laches. Admittedly the workman was employed by the respondents/department vide Annexure D-1. The perusal of this document showed that he was appointed for 89 days on temporary basis. This document is also exhibited as Exh. R-1. The workman joined duty on the same day, which is evident from Exh.R-2. Thereafter the workman was again employed for 89 days against the vacant post on temporary basis, and again the workman joined on the same day i.e. 22.02.1996, which is evident from Exh. R-7. On the expiry for 89 days, he was again appointed for 61 days vide Exh. R-8 and the workman joined on 17.06.1996 i.e. Exh. R-9. However the services of the workman were terminated by the respondents/department on 01.07.1996 vide Exh. R-10. The reason for termination of the services of the workman was given by the respondents in the termination order that Sadhu Ram, who was on earned leave has got cancelled his leave and joined the duty. Thus from all these documents, it is proved that the workman was appointed on temporary basis in place of Sh. Sadhu Ram/permanent employee of the respondents/department,



who was on earned leave. The claim of the workman that he was appointed on permanent job is proved to be false. Even in the appointment letters it was made clear by the respondents/department that the services of the workman could be terminated at any time without any notice. The workman accepted the conditions of the appointment letter and joined the duty. The employment of the workman was for fixed period and therefore the respondents/department had legal right to terminate his services on expiry of the fixed term. Since the workman was appointed against the vacant post as their employee had gone on earned leave and therefore as and when the permanent employee rejoined his duty, the services of the workman were terminated by the respondents/department. The facts with regard to the earned leave of the said employee namely Sadhu Ram are not rebutted to by the workman. Moreover the similar matter has already been decided by the Hon'ble Punjab and Haryana High Court vide order dated 20.03.1997 passed in C.W.P. No. 18620 and the claim of the petitioners therein, who claimed to be appointed on temporary basis for 89 days and sought the regularization of their services, has been rejected by the Hon'ble High Court. Therefore the workman is not entitled to the relief prayed for by him.

Even the claim of the workman is stale claim. He claimed that his services were terminated on 01.07.1996, but he filed this claim in the year 2013, thus there is delay of 17 years, which is not explained by him. The unexplained inordinate delay is fatal to his claim and proved that he had admitted the action of the respondents department to be legal and justified. Thus this issue is decided in favour of the respondents/ management.”



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3. This Court does not find any jurisdictional error or manifest
illegality or infirmity in the impugned order, warranting interference.
4. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

05.08.2024
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No