



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208

CWP No.14617-2019(O&M)

DATE OF DECISION: 05.04.2025

MANAGING DIRECTOR PUNJAB STATE
WAREHOUSING CORPORATION LTD. AND ORS.Petitioners

VERSUS

PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL BATHINDA AND ANRRespondents

208-1

CWP-15759-2019(O&M)

PUNJAB STATE WAREHOUSING CORPORATION
THROUGH ITS MANAGING DIRECTOR AND ORS.Petitioners

VERSUS

THAMAN BAHADUR AND ANRRespondents

208-2

CWP NO.18330-2019(O&M)

PUNJAB STATE WAREHOUSING
CORPORATION LTD. AND ANR.Petitioners

VERSUS

PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL AND ANRRespondents

208-3

CWP NO.28267-2019(O&M)

PUNJAB STATE WAREHOUSING
CORPORATION LTD. AND ORS.Petitioners

VERSUS

PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL AND ANR.Respondents

208-4

CWP NO.28521-2019(O&M)

PUNJAB STATE WAREHOUSING
CORPORATION LTD. AND ORS.Petitioners

VERSUS

PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL AND ANR.Respondents

208-5

CWP NO.19803-2019(O&M)



MANAGING DIRECTOR PUNJAB STATE
WAREHOUSING CORPORATION LTD. AND ANR.Petitioners

VERSUS

PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL BATHINDA AND ANR.Respondents

CORAM HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present Mr.Amanpreet (A.P) Singh, Advocate,
for the petitioners in CWP-15759-2019.
Mr. Manvir Singh Batth, Advocate,
for the petitioners in CWP-14617-2019
Mr. S.S.Bedi, Advocate,
for the petitioners in CWP Nos.18330 and 28521 of 2019.
Mr. Vikas Arora Advocate,
for petitioners in CWP-28267-2019.
Mr. Parambir Singh, Advocate,
for the petitioners in CWP-19803-2019.
Mr. Vinay Bajaj, Advocate,
for respondent no.1 in CWP-15759-2019.
Mr. Tarun Singla, Advocate,
for respondent no.2 in CWP-14617, 18330,
19803 and 28267 of 2019 and
for respondent no.4 in CWP-14617,
18330, 19803, 28267 of 2019.

HARSIMRAN SINGH SETHI, J (ORAL)

1. In the present bunch of petitions, the challenge is to the Award dated 16.01.2019 (Annexure P-6) passed by the Labour Court, by which, the workmen have been granted the benefit of reinstatement in service with continuity and 50% back wages.

2. Certain facts are being noticed for the correct appreciation of the issue in hand. For the purpose of the present order, the facts are being taken up from CWP No. 14617 of 2019. In the said writ petition, the respondent-workman was appointed as a helper on 15.09.1997. He continued work till his services were terminated in December 2000. The workman did not initiate any action against the petitioner-Department until 22.03.2012 when a claim petition was filed. The said claim was referred to the Labour Court for adjudication and ultimately the impugned Award



dated 16.01.2019 (Annexure P-6) was passed wherein, the termination of the services of the workman by the petitioner-Department was held to be bad on the ground that the workman had worked for more than 240 days in service before termination of their services and requirements of Section 25(F) of the Industrial Disputes Act, 1947 (hereinafter referred to as 1947 Act) was not complied with by the petitioner-Department. That a similar award has also been passed in the case of other workmen by the Labour Court, wherein, their termination from service has been held to be bad and the benefit of reinstatement along with continuity in service and 50% of back wages has been awarded. The said Awards are under challenge before this Court by raising a plea that the Labour Court should not have entertained the issue after a period of 13 years as workmen did not have any explanation for not approaching the Labour Court for redressal of their grievance after one and half decade approximately. Learned counsel for the petitioner-Department relies upon the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No. 638 of 2000, decided on 28.01.2000**, titled **Nedungadi Bank Ltd. Versus K.P.Madhavankutty** to contend that if a reference is made after a period of seven years, such reference is without jurisdiction of the Labour court so as to entertain it and adjudicate upon it.

3. Upon notice of motion, the respondents – workmen have appeared and have contended that the termination of the services by the petitioner-Department was held to be bad keeping in view the violation of provisions of 1947 Act and the workmen who were a class IV employee were not aware of their rights and therefore, the delay of 13 years in filing the claim petition has rightly been condoned by Labour Court so as to pass the impugned Award for the benefit of the respondent-workmen which Award should be up held.

4. Learned counsel for respondents – workmen places reliance upon judgment of the Hon'ble Supreme Court in Civil Appeal No. 8434 of 2014, decided on 16.12.2014, titled **Raghubir Singh versus General Manager, Haryana**



Roadways, Hissar to contend that delay cannot come in the way of giving justice to the workman are to deny them to claim the benefit they may be entitled to.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. From the facts which have been narrated herein before transpires that there has been a delay on part of the respondent-workman in raising the reference before the Labour Court. As per the judgment in **K.P.Madhavankutty's case (supra)**, 7 years delay has been considered as fatal and it was held that the reference could not have been made. But in the present case, the petitioner-Department did not challenge the reference raised by respondent-Workman so as to challenge to the jurisdiction of the Labour Court to entertain the same and it is only after the impugned Award passed had gone against them, they have approached this Court challenging the same on the ground of delay.

7. The similar view that the prolonged delay will be fatal in case the same is not explained has been reiterated by the Hon'ble Supreme Court of India in **Civil Appeal No.1023 of 2010, decided on 03.12.2010**, titled **Kuldeep Singh versus G.M.Instrument Design Development and Facilities Cenbre and another.**

Paragraph 21 of the said judgment reads as under:-

"21. In view of the above, law can be summarised that there is no prescribed time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is more so in view of the language used, namely, if any industrial dispute exists or is apprehended, the appropriate Government "at any time" refer the dispute to a Board or Court for enquiry. The reference sought for by the workman cannot be said to be delayed or suffering from a lapse when law does not prescribe any period of limitation for raising a dispute under Section 10 of the Act. The real test for making a reference is whether at the time of the reference dispute exists or not and when it is made it is presumed that the State Government is satisfied with the ingredients of the provision, hence the Labour Court cannot go behind the reference. It is



not open to the Government to go into the merit of the dispute concerned and once it is found that an industrial dispute exists then it is incumbent on the part of the Government to make reference. It cannot itself decide the merit of the dispute and it is for the appropriate Court or Forum to decide the same. The satisfaction of the appropriate authority in the matter of making reference under Section 10(1) of the Act is a subjective satisfaction. Normally, the Government cannot decline to make reference for laches committed by the workman. If adequate reasons are shown, the Government is bound to refer the dispute to the appropriate Court or Forum for adjudication. Even though, there is no limitation prescribed for reference of dispute to the Labour Court/Industrial Tribunal, even so, it is only reasonable that the disputes should be referred as soon as possible after they have arisen and after conciliation proceedings have failed, particularly, when disputes relate to discharge of workman. If sufficient materials are not put forth for the enormous delay, it would certainly be fatal. However, in view of the explanation offered by the workman, in the case on hand, as stated and discussed by us in the earlier paragraphs, we do not think that the delay in the case on hand has been so culpable as to disentitle him any relief. We are also satisfied that in view of the details furnished and the explanation offered, the workman cannot be blamed for the delay and he was all along hoping that one day his grievance would be considered by the Management or by the State Government.”

Whereas in **Raghubir Sigh’s case (supra)**, benefit was granted to the workman by recording a finding that the delay in raising a reference will not take away the right of the workman to refer the dispute to the Labour Court but the Labour Court has to keep the said delay in mind while adjudicating upon the claim of the employees.

8. The totality of the circumstances shows that where the delay in raising the reference has not been explained, adjudication of the reference raised qua the dispute by the Labour Court becomes fatal and the act of raising the reference by the workman can be challenged on the ground of the delay and even if the delay is not



fatal, the delay in approaching the Labour Court has to be kept in mind while adjudicating the claim raised by the workman.

9. Hence, in the facts and circumstances of the present case, once the Labour Court has already adjudicated upon the *lis* between the parties on merit, the prayer of the petitioners that the claim of the respondent-workman should be rejected outrightly is not being accepted.

10. Non-explained delay of more than a decade has to be treated as fatal but the employer was required to challenge the reference at the first available opportunity to claim relief, if claim despite delay has been referred to the Court whereas in the present case, ground of delay has been raised after suffering an award.

11. Further in the present cases while granting the relief to the respondent-workman, the Labour Court has ignored the delay in raising of the reference. The services of the employees were terminated in the year 2000 whereas the Award has been passed after 19 years granting them with the benefit of reinstatement in service. Grant of benefit of reinstatement in service to a temporary employee who is not holding permanent post, has not been considered by the Labour Court while passing the impugned Award. Until and unless, an employee has a right to hold the post and the said post still exists and duties of the workman are needed to be discharged, the benefit of reinstatement in service could not have been granted and the same should have been taken into consideration by the Labour Court while granting the benefit of reinstatement. In the present case, the benefit of reinstatement in service has been granted after 19 years, which benefit has been granted by the Labour Court without any application of mind.

12. The question which arises for determination is that what would be the benefit which the workman could be granted on the ground of illegal termination of their services by the petitioner-Department as termination of the services of respondent-workmen was held to be bad only on the ground that requirements under Section 25(F) were not complied with. The Labour Court, rather than granting the



respondent-workman with the benefit of reinstatement in service with back wages and continuity in service the benefit of compensation should have been granted in the facts and circumstances of the present case. The grant of benefit of reinstatement in service after 20 years and that too with back wages while condoning the delay in raising the reference by the respondent-workman which delay has gone unexplained, could not have been granted in the facts and circumstances of the present case.

13. Hence, the workman should have been granted the benefit of lumpsum compensation rather than the relief which has been granted by the Labour Court.

14. The Division Bench of this Court in **LPA No. 1203 of 2021** titled **Sukhbir Singh versus State of Haryana and others, decided on 01.03.2023**, has held as under:-

***“Para No. 6** Resultantly, once the workman had completed 240 days and apparently had worked for a period spanning more than 5 ½ years, we are of the considered opinion that dispensing of his service before his contractual period came to an end would entitle him for the statutory protection which would be evident from the award of the Labour Court. However, keeping in view the fact that at this point of time, it would not be justified to put him back in service since a period of almost 25 years has gone by and therefore, it would be just and appropriate to award compensation to the tune of Rs.2,50,000/- on an average of Rs.50,000/-per year, keeping in view the fact that the State had taken his service for more than 5 years with the same office in different districts.*

Para no.7** The Apex Court in **Haryana Urban Development Authority Vs. Om Pal, (2007) 5 SCC 742** granted Rs.25,000/- for the service of one year whereas in **Uttaranchal Forest Development Corporation Vs. M.C.Joshi, (2007) 9 SCC 353**, for a period of 2 years, a sum of Rs.75,000/- was granted. Similarly, in **Asst.Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, 2013 (1) SCR 679**, the said view was followed while noticing that the service was of 8 months and thus, compensation of Rs.50,000/- was granted. Similarly, in **Management, Hindustan Machine Tools



Ltd. Vs. Ghanshyam Sharma, 2018 (18) SCC 80, for a period of one year, compensation of Rs.50,000/- had been granted. In K.V.Anil Mithra & another Vs. Sree-Sankaracharya University of Sanskrit & another, 2021 (4) SCT 415, for a period of little over 4 years, amount awarded was Rs.2,50,000/- in lieu of the reinstatement and backwages of 50% which was granted and accordingly, modified.”

15. The relief given in the impugned Awards is modified to the extent that workman will be entitled for lump sum compensation instead of reinstatement in service and back wages. The compensation will be paid keeping in view the judgment of the **Sukhbir Singh’s case (supra)** @ Rs.50,000/- for each completed year in service. In case, an employee has service more than 6 months service, the same will also be treated as completed year for the purpose of calculating the amount of compensation.

16. Keeping in view the above, respondent No.2 in all the writ petitions, will get the following amount of compensation as benefit. In CWP No.14617 of 2019, respondent-workman will get compensation of Rs.1,50,000/- for his 3 years in service. In CWP No.15759 of 2019, the respondent-Workman will get compensation of Rs.3,00,000/- for his 6 years in service. In CWP No.18330 of 2019, the respondent-Workman will get a compensation of Rs.1,00,000/- for his 2 years in service. In CWP No.28267 of 2019, the respondent-workman will get a compensation of Rs.1,00,000/- for his 2 years in service. In CWP No.28521 of 2019, the respondent-Workman will get a compensation of Rs.1,00,000/- for his 2 years in service. In CWP No.19308 of 2019, the respondent-Workman will get a compensation of Rs.1,00,000/- for his 2 years in service.

13. Further, the said lumpsum compensation should be released in favour of the respondent-workman within a period of 8 weeks from the receipt of copy of this order. In case, the compensation granted is not assessed and released within the time



frame granted, the employee will also be entitled for interest @ 8% p.a on the said compensation from the date of this order till the actual payment of the same.

- 14. Disposed of in the above terms.
- 15. Civil Misc. Application pending, if any, shall also stand disposed of.
- 16. A photocopy of the order be placed on the files of other connected petitions.

05.04.2025
mamta

(HARSIMRAN SINGH SETHI)
JUDGE

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