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

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Date of Decision : **09.04.2026****GURMEJ SINGH AND OTHERS**

.....Petitioners

VERSUS**PUNJAB ROADWAYS, TARN TARAN AND OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Prateek Mahajan, Advocate,
Mr. Mayank Vashishth, Advocate and
Mr. Kunal Soni, Advocate,
for petitioner no.1.

Petitioners no.2 and 3 deleted vide
order dated 10.08.2000.

Mr. Tejinder Pal Singh Walia, AAG, Punjab.
Mr. Sanjeev Soni, Advocate and
Mr. Tara Dutt, Advocate,
for the respondents.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, cast under Article 226/227 of the Constitution of India, is that, the legality of the Award dated 30.08.1997 (Annexure P-2), passed by the learned Industrial Tribunal concerned, has been challenged, wherethrough, the reference was answered against the the petitioners, mainly on the ground that the demand was raised at a belated stage.

2. Vide order dated 10.08.2000, the petitioners no.2 and 3 were deleted from the array of petitioners, and notice of motion was issued

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only *qua* petitioner no.1-Gurmej Singh. Therefore, now only petitioner no.1-Gurmej Sigh is contesting the instant *lis*.

3. Succinctly stated, the petitioner no.1-Gurmej Singh raised demand by way of demand notice, challenging the order by which his grade increments which have been stopped with cumulative effect, are valid or not. The petitioner no.1-Gurmej Singh was employed as a Conductor with the Punjab Roadways, Tarn Taran, when the order of stoppage of grade increment was passed. The main ground for challenging the said order of punishment was that the same was passed without holding any inquiry. According to Punjab Civil Services (Punishment and Appeal) Rules, 1970 (hereinafter referred to as the 'Rules of 1970'), which clarifies the punishment of stoppage of grade increment with the order of cumulative effect, would be a major punishment. Therefore, the procedure prescribed under the said Rules, mandates upon the department to hold an inquiry before imposing such major penalty. The said demand notice was contested by the respondent-department by filing a written statement. Thereupon, on the basis of the pleadings, following issues were framed by the learned Industrial Tribunal concerned:-

“(1) Whether the reference in respect of Balwinder Singh, Harjinder Singh is barred by the principles of *res judicata* because of the decision of the Civil Court as alleged in the preliminary objection of the written statement?

(2) Whether claim made by the concerned workmen is entertainable in view of the belated demand notice without any explanation?

(3) Whether the orders stoppage of the grade increments respect

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of Harjinder Singh during the period 31st September, 1973 as to 25th August, 1986 and 7 in respect of Balwinder Singh during the period 24th October, 1973 to 3rd April, 1985”

4. The learned Industrial Tribunal concerned, though concluded that the punishment imposed upon the petitioner no.1-Gurmej Singh, is without following the procedure as prescribed under the Rules 8 and 9 of the Rules of 1970, and the order of punishment was passed only after serving charge-sheet and obtaining the reply, but without holding any departmental inquiry. However, the reference was answered against the present petitioner no.1-Gurmej Singh, alongwith other two workmen (since deleted), and denied the relief on the ground of limitation.

5. In the instant case, the punishment was imposed vide order dated 24.12.1981, and the demand was raised on 27.09.1993, which was, finally, referred to the Industrial Tribunal on 08.08.1995. Admittedly, there is a huge delay in raising the demand under Section 10(1)(c) the Industrial Disputes Act, 1947. Though, no limitation period is prescribed, however, the stale and dead claims cannot be raised at belated stage. Learned counsel for the petitioners, made endeavour to satisfy this Court on the ground that the delay cannot be fatal for the petitioner's claim, for the reason that there is a recurring loss to the petitioner no.1-Gurmej Singh, and in case the punishment order is declared null and void, he would be entitled for refixation of pay and other pensionary benefits.

6. Learned counsel for petitioner no.1-Gurmej Singh, placed reliance upon plethora of judgments, as cited below, to submit that where



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there is a recurring loss, the relief can be limited upto three years, and the same cannot be denied:-

- i. State of Punjab vs. Kirpal Singh and Anr, 2013 SCC Online P&H 1988;
- ii. State of Punjab vs. Niranjan Singh, 2014 (4) SCT 437
- iii. Tarsem Singh vs. Punjab State and Anr. 2013 (2) SCT 338
- iv. Malkiat Singh vs. State of Haryana, 2007 (4) SCT 801;
- v. State of Punjab vs. Premjit and Anr., 2010 (5) SLR 385;
- vi. State of Punjab vs. Mohan Singh, 2007 (3) SCT 751;
- vii. Yograj Mittal vs. State of Punjab, 2008 (2) SCT 395;
- viii. State of Haryana and ors. vs. Rajender Singh, RSA-3238-1998
- ix. Keshav Krishan vs. Department of Punjab State Civil Supplies Corp.Ltd.and Ors., RSA-1574-2006.
- x. Jai Parkash vs. State of Haryana, RSA-2119-1998
- xi. Kulwant Singh Gill vs. State of Punjab, 1990 (2) CLR 686
- xii. Sarv Shramik Sanghatana (KV), Mumbai vs. State of Maharashtra and Ors. 2008 AIR (SC) 946

7. In all these cases, as cited above, stoppage of increment, with cumulative effect was challenged at a belated stage, and the relief was granted to the claimants.

8. On the other hand, learned counsel for the respondents jointly, opposed the submissions as made by learned counsel for the petitioner no.1-Gurmej Singh and while placing reliance upon a judgement passed by this bench in “**Managing Director, PEPSU Road Transport Corp., Patiala and Another vs. Presiding Officer, Industrial Tribunal, Bathinda and another**”, (CWP-22606-2017, decided on 22.01.2026), prayed for dismissal of the instant petition.

9. This Court has considered rival submissions, and has perused the impugned Award.

10. To examine the issue at hand, it is imperative to have a glimpse upon the provision of Section 10 of the Industrial Disputes Act,

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1947, which is extracted hereinafter:-

(1)[Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time by order in writing-

(a)refer the dispute to a Board for promoting a settlement thereof; or

(b)refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

(c)[refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or,

(d)refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c):]

[Provided further that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

[Provided also that where the dispute in relation to which the Central Government is the appropriate Government, it shall be competent for the Government to refer the dispute to a Labour Court or an Industrial Tribunal, as the case may be, constituted by the State Government.

[(1-A) Where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a National Tribunal for adjudication.

2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, [Labour Court, Tribunal or National Tribunal,

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the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

[(2-A) An order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section shall specify the period within which such Labour Court, Tribunal or National Tribunal shall submit its award on such dispute to the appropriate Government:

Provided that where such industrial dispute is connected with an individual workman, no such period shall exceed three months:

Provided further that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, to the Labour Court, Tribunal or National Tribunal for extension of such period or for any other reason, and the presiding officer of such Labour Court, Tribunal or National Tribunal considers it necessary or expedient to extend such period, he may for reasons to be recorded in writing, extend such period by such further period as he may think fit:

Provided also that in computing any period specified in this sub-section, the period, if any, for which the proceedings before the Labour Court, Tribunal or National Tribunal had been stayed by any injunction or order of a Civil Court shall be excluded:

Provided also that no proceedings before a Labour Court, Tribunal or National Tribunal shall lapse merely on the ground that any period specified under this sub-section had expired without such proceedings being completed.]

(3) Where an industrial dispute has been referred to a Board, [Labour Court, Tribunal or National Tribunal] under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference

(4) Where in an order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto.

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a [Labour Court, Tribunal or National Tribunal] under this section and the appropriate Government is of opinion, whether on an application

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made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.]

[(6) Where any reference has been made under sub-section (1-A) to a National Tribunal, then notwithstanding anything contained in this Act, no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly, -

(a) if the matter under adjudication before the National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before the Labour Court or the Tribunal, as the case may be, in so far as it relates to such matter, shall be deemed to have been quashed on such reference to the National Tribunal; and

(b) it shall not be lawful for the appropriate Government to refer the matter under adjudication before the National Tribunal to any Labour Court or Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.

[Explanation. In this sub-section, "Labour Court" or "Tribunal" includes any Court or Tribunal or other authority constituted under any law relating to investigation and settlement of industrial disputes in force in any State.]

(7) Where any industrial dispute, in relation to which the Central Government is not the appropriate Government, is referred to a National Tribunal, then, notwithstanding anything contained in this Act, any reference in section 15, section 17, section 19, section 33-A, section 33-B and section 36-A to the appropriate Government in relation to such dispute shall be construed as a reference to the Central Government but, save as aforesaid and as otherwise expressly provided in this Act, any reference in any other provision of this Act to the appropriate Government in relation to that dispute shall mean a reference to the State Government.]

[(8) No proceedings pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National



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Tribunal shall complete such proceedings and submit its award to the appropriate Government.]

11. Admittedly, there is no time limit prescribed in the above extracted provision, however, as to whether, the stale claim can be filed, has been considered in “**State of Punjab and others vs. Gurwinder Singh and another**”, 2009 (3) SCT 119, wherein it was held by a co-ordinate bench of this Court, that stale claims cannot become a basis for an industrial dispute. The relevant part of the aforesaid judgment is extracted hereinafter:-

“5. The factual position with regard to the delay in making the demand and claiming an industrial dispute has not been disputed. As per the assertion of the workman, his services were terminated on 8.9.1986. The demand notice is dated 17.10.1995. The delay is apparently of more than nine years. No explanation whatsoever has come on record which can be said to be justifiable for not approaching or claiming the dispute within a reasonable time before the Appropriate Government. The principles as enunciated by the Hon'ble Supreme Court in the case of Nedungadi Bank Limited Case (supra) and Chief Engineer, Ranjit Sagar Dam and another's case (supra), would be fully applicable to the present case. There is a lapse of more than 9 years in making a demand to the Appropriate Government. Therefore, by no stretch of imagination it can be said that a dispute could exist after such a long delay, moreso when no cogent reasons have come forth explaining the delay in making the demand notice. The stale claims cannot be said to form the basis of an industrial dispute and as a matter of fact, no industrial dispute can be said to have existed after a long period of 9 years from the date of termination. Thus, relying upon the ratio of the judgments, referred to above on the question of delay, the writ petition deserves to be allowed on this ground alone. In view of the above, the present writ petition is allowed. The impugned award dated 28.3.2008 (Annexure P-8) passed by the Labour Court, Bathinda is hereby set aside.”

12. The Hon'ble Supreme Court has also considered the issue in question, in its judgment in “**Nedungadi Bank Ltd. vs.**

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K.P.Madhavankutty” 2000 (1) SCT 1088, wherein, it was held that if the demand notice is issued after a lapse of a long time, the Government, has to consider, as to whether, at relevant time, some industrial dispute existed, and, further, the dispute does not arise merely by issuing a demand notice. In this case, the reference was made after a lapse of 07 years, which was held to be unjustified. The relevant paragraphs are extracted hereinafter:-

“6. Law does not prescribe any time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after lapse of about seven years of order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under that circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising industrial dispute was ex facie bad and incompetent.

7. In the present appeal it is not the case of the respondent that the disciplinary proceedings, which resulted in his dismissal were in any way illegal or there was even any irregularity. He availed his remedy of appeal under the rules governing his conditions of service. It could not be said that in the circumstances industrial dispute did arise or was even apprehended after lapse of about seven years of the dismissal of the respondent. Whenever a workman raises some dispute it does not become industrial dispute and appropriate



Government cannot in a mechanical fashion make the reference of the alleged dispute terming as industrial dispute. Central Government lacked power to make reference both on the ground of delay in invoking the power under Section 10 of the Act and there being no industrial dispute existing or even apprehended. The purpose of reference is to keep industrial peace in an establishment. The present reference is destructive to the industrial peace and defeats the very object and purpose of the Act. Bank was justified in thus moving the High Court seeking an order to quash the reference in question.

8. It was submitted by the respondent that once a reference has been made under Section 10 of the Act a Labour Court has to decide the same and High Court in writ jurisdiction cannot interfere in the proceedings of the Labour Court. That is not a correct proposition to state. An administrative order which does not take into consideration statutory requirements or travels outside that it is certainly subject to judicial review limited though it might be. High Court can exercise its powers under Article 226 of the Constitution to consider the question of very jurisdiction of the Labour Court. In **National Engineering Industries Ltd. v. State of Rajasthan, 2000(1) SCT 717 (SC): JT 1999(9) SC 377** this Court observed :-

"It will be thus seen that High Court has jurisdiction to entertain a writ petition when there is allegation that there is no industrial dispute and none apprehended which could be subject matter of reference for adjudication to the Industrial Tribunal under Section 10 of the Act. Here it is a question of jurisdiction of the industrial dispute, which could be examined by the High Court in its writ jurisdiction. It is the existence of the industrial tribunal which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it. If there is no industrial dispute in existence or apprehended appropriate Government lacks power to make any reference."

13. Similarly, in **"Chief Engineer, Ranjit Sagar Dam and another vs. Sham Lal"** 2006 (3) SCT 468, also, the Hon'ble Supreme Court held that though there is no provision in the Industrial Disputes Act, 1947, under which the limitation may be applied to the reference under Section 10 of the said Act, however, belated claim will not be

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entertained, and referred by the appropriate government. In this case, the delay of 4-5 years was held to be fatal to the case of the workman.

14. Similarly, in “**UP State Road Transport Corporation vs. Babu Ram**” 2006 (3) SCT 486, the Hon'ble Supreme Court, observed and held as under:-

6. It is to be noted that the High Court has very cryptically disposed of the writ petition. The workman has not placed any material to show that it had raised dispute within a reasonable time, and/or that he was not responsible for delayed decision if any in the conciliation proceedings. It was for him to show that the dispute was raised within a reasonable time and that he was not responsible for any delay. The High Court, on a hypothetical basis, has assumed that the dispute might have been raised promptly but delayed by the State Government and he cannot be penalised for delay in finalising the conciliation proceedings and the reference. But neither the Labour Court nor the High Court has even noted the factual position. The conclusion was based on surmises and conjectures.

That being so, the order of the High Court is clearly unsustainable. We, therefore, set aside the order of the High Court and remit the matter to the High Court to consider the question of delay in seeking reference and decide the matter afresh in accordance with law.

The appeal is accordingly disposed of. No costs.
Appeal allowed.”

15. While following the above judicial precedents, this Court has already taken a similar view in its judgement in “**Managing Director, PEPSU Road Transport Corporation's case** (*supra*).

16. In the instant case, after an inordinate delay of about 12 years, the punishment order was put to challenge. It is well established that most of punishment orders carry financial implications. Therefore, under the garb of submission that it has recurring loss, does not give liberty to a person to dig out stale and dead issues. The petitioner no.1-

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Gurmej Singh, was well aware about the punishment imposed upon him from the very beginning, and consciously, he chose not to challenge the same at the relevant time. Therefore, having accepted the order and its consequences for a continuous period of 12 years, despite being aware that it affected his pay and other pensionary benefits, he cannot now be permitted to raise such dispute by invoking the provisions of Section 10(1)(c) of the Industrial Disputes Act, 1947.

17. In the anvil of the above settled legal prepositions, this Court concurs with the findings recorded by the learned Tribunal concerned vide impugned Award. Therefore, finding no merit in the instant petition, same is, hereby, **dismissed**.

18. All pending application(s), if any, also stand **disposed** of accordingly.

April 09, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

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