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

**CWP-22606-2017
Date of Decision: 22.01.2026**

**MANAGING DIRECTOR PEPSU ROAD TRANSPORT CORP
PATIALA AND ANOTHER**

-PETITIONERS

V/S

**PRESIDING OFFICER INDUSTRIAL TRIBUNAL, BATHINDA
AND ANOTHER**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present Mr. Anil Shama, Advocate and
Ms. Devyani Sharma, Advocate,
for the petitioners.

Ms. Anamika Sheoran, Advocate for
Mr. Vikas Singh, Advocate,
for respondent no.2.

KULDEEP TIWARI, J. (Oral)

1. The sole ground on which the petitioner-management has challenged the Award dated 27.02.2017 (Annexure P-2), by way of the present petition under Articles 226/227 of the Constitution of India, is due to an inordinate delay of 16 years in raising the industrial dispute, inasmuch as the respondent no. 2—workman was terminated from service on dated 22.06.1996, whereas the demand was raised vide demand notice on dated 20.09.2012.



2. In the instant case, the reference was answered in favour of respondent no.2-workman, despite the issue of delay and latches having been, specifically, raised by the petitioner-management before the learned Tribunal concerned. However, the latter concerned, observed that since the reference itself, has not been challenged, the delay would not be held to be fatal, therefore, it had no other option except to decide the reference on merits. Consequently, while exercising the powers as envisaged under Section 11-A of the Industrial Disputes Act, 1947, the learned Tribunal concerned, answered the reference in favour of respondent no.2-workman, and order of punishment was interfered with by converting the punishment of termination from service to compulsory retirement with all his retiral benefits intact, including the pension, as admissible to him, alongwith the arrears of pension restricted to three years prior to institution of claim/reference.

3. Learned counsel for the petitioner addressed arguments only on the ground of delay and latches. He submits that the stale claims, cannot form the basis for an industrial dispute, and there must be a reasonable explanation for such delay to raise such dispute. In the instant case, there is an inordinate delay of 16 years, and there is not even a whisper in the claim statement, explaining therein, the reasons of such prolonged delay.

4. Learned counsel for respondent no.2-workman, on the other hand, submits that the petitioner-management has never challenged the



reference at any stage, therefore, now they cannot raise the issue of delay and latches. Once the reference has been made by the State Government, the learned Tribunal concerned, had no other option, except to decide the issue on merits, including the issue relating to the legality of the termination order.

5. This Court has considered the submissions, as made by learned counsel for the parties concerned, and has perused the impugned Award.

6. There is no wrangle amongst the parties, that the claim statement/demand notice was filed after 16 years from the date of the termination of respondent no.2-workman. Now, the issue arises for consideration, as to whether, in view of Section 10(1)(c) of the Industrial Disputes Act, 1947, wherein, no period of limitation is prescribed, the stale claim can still be entertained, and reference can be made; and whether, the learned Industrial Tribunal-cum-Labour Courts, is bound to decide such reference without taking into account the issue of delay and latches.

7. To answer the aforesaid query, lets have glimpse upon the provision of Section 10 of the Industrial Disputes Act, 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], 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

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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 subsection, 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 Ha 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 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

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



8. 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 by this court 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.”

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

10. 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 entertained, and referred by the appropriate government. In this case, the

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delay of 4-5 years was held to be fatal to the case of the workman. The relevant paragraphs are extracted hereinafter:-

“9. So far as delay in seeking the reference is concerned, no formula of universal application can be laid down. It would depend on facts of each individual case.

However, certain observations made by this Court need to be noted. In Nedungadi Bank Ltd. v. K.P. Madhavankutty and Ors., 2000(1) SCT 1088: (2000(2) SCC 455) it was noted at paragraph 6 as follows:

"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 a lapse of about seven years of the 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 what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising an industrial dispute was ex-facie bad and incompetent."

10. In S.M. Nilajkar and Ors. v. Telecom District Manager, Karnataka, 2003(2) SCT 1013: (2003(4) SCC 27) the position was reiterated as follows: (at para 17)

"17. It was submitted on behalf of the respondent that on account of delay in raising the dispute by the appellants the High Court was justified in denying relief to the

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appellants. We cannot agree. It is true, as held in M/s. Shalimar Works Ltd. v. Their Workmen (supra) (AIR 1959 SC 1217), that merely because the Industrial Disputes Act does not provide for a limitation for raising the dispute it does not mean that the dispute can be raised at any time and without regard to the delay and reasons therefor. There is no limitation prescribed for reference of disputes to an 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 so when disputes relate to discharge of workmen wholesale. A delay of 4 years in raising the dispute after even reemployment of the most of the old workmen was held to be fatal in M/s. Shalimar Works Limited v. Their Workmen, (AIR 1959 SC 1217). (supra) In Nedungadi Bank Ltd. v. K.P. Madhavankutty and others AIR 2000 SC 839 (supra), a delay of 7 years was held to be fatal and disentitled to workmen to any relief. In Ratan Chandra Sammanta and others v. Union of India and others (1993 AIR SCW 2214, (supra) it was held that a casual labourer retrenched by the employer deprives himself of remedy available in law by delay itself, lapse of time results in losing the remedy and the right as well. The delay would certainly be fatal if it has resulted in material evidence relevant to adjudication being lost and rendered not available. However, we do not think that the delay in the case at hand has been so culpable as to disentitle the appellants for any relief. Although the High Court has opined that there was a delay of 7 to 9 years in raising the dispute before the Tribunal but we find the High Court factually not correct. The employment of the appellants was terminated sometime in 1985-86 or 1986-87. Pursuant to the judgment in Daily Rated Casual Employees Under P&T Department v. Union of India (AIR 1987 SC 2342), the department was formulating a scheme to accommodate casual labourers and the appellants were justified in awaiting the outcome thereof. On 16-1-1990 they were refused to be accommodated in the scheme. On 28-12-1990 they initiated the proceedings under the Industrial Disputes Act followed by conciliation proceedings and then the dispute was referred to the Industrial Tribunal cum-Labour Court. We do not think that the appellants deserve to be non sulted on the ground of delay."

The above position was highlighted recently in Employers in relation to the Management of Sudamdih Colliery of M/s Bharat Coking Coal Ltd. v. Their



Workmen represented by Rashtriya Colliery Mazdoor Sangh, 1995(1) S.C.T. 392: (2006(1) Supreme 282).

Above being the position, impugned judgment of the High Court is indefensible and is set aside.

The appeal is allowed without any order as to costs. In case the respondent has been reinstated pursuant to the order of the Labour Court or the High Court, salary and other emoluments paid to him shall not be recovered.

Appeal allowed.”

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

“5. So far as delay in seeking the reference is concerned, no formula of universal application can be laid down. It would depend on facts of each individual case.

However, certain observations made by this Court need to be noted. In **Nedungadi Bank Ltd. v. K.P. Madhavankutty and Ors., 2000(1) SCT 1088: (2000(2) SCC 455)** it was noted at paragraph 6 as follows:

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respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising an industrial dispute was ex-facie bad and incompetent."

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"17. It was submitted on behalf of the respondent that on account of delay in raising the dispute by the appellants the High Court was justified in denying relief to the appellants. We cannot agree. It is true, as held in M/s. Shalimar Works Ltd. v. Their Workmen (supra) (AIR 1959 SC 1217), that merely because the Industrial Disputes Act does not provide for a limitation for raising the dispute it does not mean that the dispute can be raised at any time and without regard to the delay and reasons therefor. There is no limitation prescribed for reference of disputes to an 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 so when disputes relate to discharge of workmen wholesale. A delay of 4 years in raising the dispute after even reemployment of the most of the old workmen was held to be fatal in M/s. Shalimar Works Limited v. Their Workmen (AIR 1959 SC 1217) (supra). In Nedungadi Bank Ltd. v. K.P. Madhavankutty and others, AIR 2000 SC 839 (supra), a delay of 7 years was held to be fatal and disentitled to workmen to any relief in Ratan Chandra Sammanta and others v. Union of India and others (1993 AIR SCW 2214), it was held that a casual labourer retrenched by the employer deprives himself of remedy available in law by delay itself, lapse of time results in losing the remedy and the right as well. The delay would certainly be fatal if it has resulted in material evidence relevant to adjudication being lost and rendered not available. However, we do not think that the delay in the case at hand has been so culpable as to disentitle the appellants for any relief. Although the High Court has opined that there was a delay of 7 to 9 years in raising the dispute before the Tribunal but we find the High Court factually not correct. The employment of the appellants was terminated sometime in 1985-86 or 1986-87. Pursuant to the judgment in Daily Rated Casual Employees Under P&T Department

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v. Union of India (AIR 1987 SC 2342), the department was formulating a scheme to accommodate casual labourers and the appellants were justified in awaiting the outcome thereof. On 16-1-1990 they were refused to be accommodated in the scheme. On 28-12-1990 they initiated the proceedings under the Industrial Disputes Act followed by conciliation proceedings and then the dispute was referred to the Industrial Tribunal cum-Labour Court. We do not think that the appellants deserve to be non-suited on the ground of delay."

The above position was highlighted recently in Employers in relation to the Management of Sudamdih Colliery of M/s Bharat Coking Coal Ltd. v. Their Workmen represented by Rashtriya Colliery Mazdoor Sangh 2006(1) S.C.T. 766: (2006(1) Supreme 282).

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."

12. In the anvil of the above settled legal prepositions, this Court finds that the learned Tribunal concerned, has erroneously, recorded findings with regard to the delay and latches, which requires interference. Even though no specific period of limitation is prescribed



under the Industrial Disputes Act, 1947, it is now well settled that stale and belated claims cannot be entertained, as the same defeats the very object of industrial adjudication, and unsettle settled rights. In the present case, the respondent no. 2-workman raised the industrial dispute after an inordinate delay of 16 years from the date of termination, without furnishing any explanation, whatsoever, for such prolonged silence.

13. Resultantly, the instant petition, is hereby, **allowed**, and the impugned Award is ordered to be **set aside**.

January 22, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

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