



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 15797/2012

CNR: RJHC020038552012 | URN: CW / 26462U / 2012

Ashok Kumar Mahawar S/o Shri Kanhiyalal, aged about 37 years,
R/o Mukam Post- Arania, Via Bandikui, Tehsil Baswa, District
Dausa.

-----Petitioner

Versus

1. The Chief Medical and Health Officer, Dausa.
2. The Medical Officer, Primary Health Centre, Arania, Via
Bandikui, Tehsil Baswa, District Dausa.
3. The Labour Court No. 2, Mini Secretariat, Bani Park Circle,
Bani Park, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. P.C. Sharma with Ms. Arpita Joshi
For Respondent(s)	:	Mr. Yashwant Singh with Mr. Rahul Verma for Mr. Archit Bohra, AGC

HON'BLE MR. JUSTICE SANDEEP TANEJA

Order

13/10/2026

1. By way of the present writ petition, the petitioner has challenged the award dated 17.06.2009. The petitioner has also challenged the order dated 27.06.2012, whereby his application for recall of the said award was dismissed by respondent No.3- Labour Court No.2, Jaipur (hereinafter referred to as 'Labour Court').
2. The case of the petitioner is that he was appointed as a part-time Class-IV employee on a fixed salary vide order dated 03.11.1993. Thereafter, his services were terminated by a verbal



order dated 17.06.1994. Consequently, on 13.08.2004, he raised an industrial dispute before the Conciliation Officer, Dausa, challenging the termination of his services by respondent No.2. The dispute was subsequently referred to the Labour Court for adjudication. The Labour Court, vide the impugned award dated 17.06.2009, dismissed his claim, *inter alia*, on the ground that he had failed to explain the delay of ten years in raising the aforesaid dispute. Being aggrieved by the impugned award, he filed an application seeking recall of the impugned award, primarily on the ground that his advocate had neither appeared before the learned Labour Court nor informed him about the proceedings. The learned Labour Court dismissed the said application vide order dated 27.06.2012. Hence, the present writ petition.

3. Learned counsel appearing on behalf of the petitioner submits that the findings recorded by the learned Labour Court are perverse and that the award dated 17.06.2009 has been passed erroneously. He further submits that the learned Labour Court failed to consider the petitioner's contention that he was unaware of the non-appearance of his counsel before the Labour Court while dismissing the application seeking recall of the award vide order dated 27.06.2012. He further submits that since no limitation is provided for raising an industrial dispute, the learned Labour Court erred in dismissing the claim on that ground.

4. On the other hand, learned counsel for the respondents submits that the learned Labour Court has committed no illegality in passing the impugned award and the impugned order as the



petitioner grossly failed to prove his case. Therefore, this writ petition deserves to be dismissed.

5. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that, despite being granted several opportunities, the petitioner failed to lead any evidence to prove his case. Besides the above, it is undisputed that the petitioner raised the industrial dispute after a delay of ten years. No doubt that no limitation period is prescribed for raising an industrial dispute, however, it is also a settled position of law that stale claims ought not to be entertained in the absence of a satisfactory explanation for the delay. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in **Inder Singh and Sons Ltd. Vs. Workmen in the West Chirimiri Colliery through Chhatisgarh Colliery Workers' Federation**, reported in **1960 SCC OnLine SC 357**. The relevant para of the said judgment reads as under:-

"8.....It is true that laws of limitation which might bar any civil court from giving remedy in respect of lawful rights are not and should not be applied by the Industrial Tribunals. On the other hand it is a well accepted principle of industrial adjudication that over-stale claims should not generally be encouraged or allowed, unless there is a satisfactory explanation for the delay. Apart from the obvious risk to industrial peace from the entertainment of claims after a long lapse of time, it is necessary also to take into account the unsettling effect this is likely to have on the employer's financial arrangements. Whether a claim has become too stale or not will depend on the circumstances of each case....."

(emphasis supplied)





6. Further, in the case of **Prabhakar Vs. Joint Director, Sericulture Department and Others**, reported in **(2015) 15**

SCC 1, the Hon'ble Supreme Court has held as under: -

"41. We may hasten to clarify that in those cases where the Court finds that dispute still existed, though raised belatedly, it is always permissible for the Court to take the aspect of delay into consideration and mould the relief. In such cases, it is still open for the Court to either grant reinstatement without back wages or lesser back wages or grant compensation instead of reinstatement. We are of the opinion that the law on this issue has to be applied in the aforesaid perspective in such matters.

42. To summarise, although there is no limitation prescribed under the Act for making a reference under Section 10(1) of the Act, yet it is for the 'appropriate Government' to consider whether it is expedient or not to make the reference. The words 'at any time' used in Section 10(1) do not admit of any limitation in making an order of reference and laws of limitation are not applicable to proceedings under the Act. However, the policy of industrial adjudication is that very stale claims should not be generally encouraged or allowed inasmuch as unless there is satisfactory explanation for delay as, apart from the obvious risk to industrial peace from the entertainment of claims after long lapse of time, it is necessary also to take into account the unsettling effect which it is likely to have on the employers' financial arrangement and to avoid dislocation of an industry."

7. In the present case, the petitioner's services were terminated on 17.06.1994, whereas the dispute challenging the said termination was raised on 13.08.2004, i.e., after a delay of





ten years. The petitioner has failed to furnish any satisfactory explanation for such inordinate delay in raising the said dispute. Further, neither in the statement of claim nor in the present writ petition, the petitioner has been able to disclose any explanation or cogent reason justifying such delay. In the absence of any explanation for the delay, this Court is of the considered view that the Labour Court was justified in dismissing the claim petition as well as the application for recalling of the award.

8. This Court is, therefore, not inclined to interfere with the findings recorded by the learned Labour Court, in the impugned award dated 17.06.2009 and impugned order dated 27.06.2012.

9. Accordingly, the instant writ petition, is **dismissed**.

10. All pending applications, if any, stand disposed of.

(SANDEEP TANEJA),J

SA-1/Dharmendra Rakhecha/