
(2013) 09 SHI CK 0014

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 4152 of 2013-F

Dhian Singh

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 02-09-2013

Acts Referred:

Citation : (2014) 140 FLR 593 : (2014) LLR 473 : (2013) 3 ShimLC 1502

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Virender Thakur, for the Appellant; R.S. Verma, Additional Advocate General, for the Respondent

Judgement

Sanjay Karol, J.—Petitioner has prayed for the following relief: That the Respondent No. 4 may kindly be directed to make a reference to the Labour Court without any delay in the interest of justice and fair play.

Significantly, even though petitioner is seeking reference of his disputes to the Labour Court, but has not specifically assailed the order dated nil of March, 2013, passed by the Labour Commissioner, Himachal Pradesh, which reads as under: Whereas an alleged industrial dispute was claimed by Shri Dhian Singh, S/o. Shri Daya Ram, R/o. Village and P.O. Chausha, Tehsil Kandaghat, District Solan, H.P. against the Executive Engineer, IPH Division, Arki, District Solan, H.P. and, whereas, the Labour Officer-cum-Conciliation Officer, Solan Zone, Solan vide report dated 21.5.2012 has submitted that the alleged dispute could not be settled during conciliation proceedings.

Now, therefore, the undersigned while exercising the power vested under sub Section 5 of Section 12 of the Act *ibid* and in exercising the powers vested by the Govt., of Himachal Pradesh vide Notification No. : 19-8/89- Shram (Loose), Dated 7th September, 1992 carefully examined the report so received and come to the conclusion that Shri Dhian Singh, S/o. Shri Daya Ram, had worked with the above employer up to 31.8.1998. He has raised the present demand notice

on dated 1.12.2011 after more than 13 years. It can be concluded that there was no dispute for the intervening period from 31.8.1998 to 1.12.2011. There is no fresh cause of action also. Thus, the present dispute has faded away with the passage of time and is no more in existence. Hon''ble High Court of H.P. in CWP No. 398/2001-Titled M.C. Paonta Sahib v. State of H.P. and others has held the similar view which was further upheld by the Full Bench of the Hon''ble Court in CWP 1486 of 2007 titled Liaq Ram v. State of H.P. Therefore, the demand notice is prima facie, vexatious and frivolous and there is no justification whatsoever to refer this matter to Ld. Labour Court/Industrial Tribunal for adjudication. All concerned be informed accordingly.

(Emphasis supplied)

2. Petitioner''s case for reference stands rejected.

3. It is urged by Mr. Virender Thakur, learned Counsel for the petitioner, that the Labour Commissioner erred in passing the order, inasmuch as there was no material before him to have arrived at the conclusion with respect to delay on the part of the petitioner, in approaching the authorities, seeking reference, more so when in the case of similarly situated persons, the authorities themselves referred the matter to the Labour Court.

4. Record reveals that even before this Court, petitioner has not explained each day''s delay, which is inordinate, in approaching the authorities, seeking reference of his disputes or filing the present petition. Learned Counsel submits that petitioner was orally informed by the authorities to wait till the decision with respect to similarly situated persons, when and only thereafter his case for reference would be taken up. Such contentions, based on oral assurances, cannot be accepted, more so when there is dispute with regard to correctness of the same. In my considered view, ratio of law laid down by this Court in CWP No. 398/2001, titled as Sh. Laiq Ram and Smt. Kewala Devi Vs. State of Himachal Pradesh and Others, , squarely applies to the facts of the present case. Hence, the writ petition, without any merit, is dismissed.

Pending application(s), if any, also stand disposed of.