

(2024) 01 SHI CK 0026

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 3746 Of 2023

Pitamber Lal

APPELLANT

Vs

Bharat Sanchar Nigam Limited And Another

RESPONDENT

Date of Decision : 03-01-2024

Acts Referred:

Industrial Disputes Act, 1947 — Section 2A, 2A(2), 2A(3), 10

Citation : (2024) 01 SHI CK 0026

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : G.R. Palsra, Vijay Kumar Arora

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this writ petition filed under Article 226 of the Constitution of India, the petitioner has challenged the award passed by learned Central Government Industrial Tribunal- cum-Labour Court-I, Chandigarh, in Industrial Dispute No. 142 of 2014, titled as Pitamber Lal vs. Bharat Sanchar Nigam Limited and another, in terms whereof the claim petition preferred by the petitioner under Section 2-A of the Industrial Disputes Act, 1947, has been dismissed being time barred.

2. Having heard learned Counsel for the petitioner as well as learned Counsel for the respondents and having carefully perused the award passed by learned Tribunal, this Court does not find any infirmity therein.

3. It is a matter of record that the services of the petitioner were terminated on 31.12.2011, which termination was challenged by the petitioner, by filing a claim petition under Section 2-A of the Industrial Disputes Act, before the learned Tribunal on 26.03.2015. Section 2-A of the Industrial Disputes Act, 1947, enables a workman to approach the learned Labour Court or the Tribunal, as the case may be, for adjudication of a dispute pertaining to the discharge, dismissal,

retrenchment or termination of his services notwithstanding the provisions of Section 10 of the Industrial Disputes Act, after satisfying the requirements as are contemplated in sub-Section (2) thereof.

4. Sub-section (3) of Section 2-A further provides that the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

5. As mentioned hereinabove, the services of the petitioner were terminated on 31.12.2011 and he preferred an application envisaged under sub-section (2) of Section 2-A of the Industrial Disputes Act on 26.03.2015. This was beyond the period of three years as from the date of his termination. The contention of learned Counsel for the petitioner that petitioner raised his grievance with the concerned Labour Officer well within the period of three years, cannot come to the rescue of the petitioner for the reason that the language used in sub-section (3) of Section 2-A of the Industrial Disputes Act is clear and unambiguous that the workman has to file the application within a period of three years from the date of termination and there is no saving provided in sub-section (3) for any time period spent while pursuing the matter before Conciliation Officer etc. In fact, sub-section (2) of Section 2-A of the Industrial Disputes Act otherwise provides that in case a workman wants to invoke the provisions of Section 2-A of the Industrial Disputes Act, then he can do so only after expiry of 45 days from the date he makes application to the Conciliation Officer of the Appropriate Government for conciliation of the dispute. Thus, the statutory scheme itself is to the effect that after the termination of services of a workman, firstly he has to make an application to the Conciliation Officer of the Appropriate Government for conciliation of the dispute and after expiry of 45 days thereof, he can directly approach the Labour Court but such claim has to be made by the workman within three years as from the date of termination.

4. Therefore, as this Court does not find any infirmity in the award passed by learned Labour Court, in terms whereof the claim petition of the petitioner has been dismissed being time barred because admittedly the petitioner did not file the claim under Section 2-A of the Industrial Disputes Act, 1947, before the Labour Court within the period of three years as from the date of his termination, this petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.