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**(2016) 01 P&H CK 0403**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 27494/2015**

Rajender Kumar

APPELLANT

Vs

The Presiding Officer and Others

RESPONDENT

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**Date of Decision :** 05-01-2016

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Industrial Disputes Act, 1947 — Section 2A

**Citation :** (2017) 152 FLR 188 : (2016) LabLR 190

**Hon'ble Judges :** Sabina, J.

**Bench :** Single Bench

**Advocate :** Kanhiya Soni, Advocate, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

Sabina, J.—1. Petitioner has filed this petition challenging the award dated 02.12.2011 (Annexure P-6). Learned counsel for the petitioner has submitted that the petitioner be granted one opportunity to enable him to lead his evidence.

2. The case of the petitioner, in brief, is that he was engaged as a Weaver with respondent No. 2 on 24.11.1981 and was paid wages on piece rate basis. Services of the petitioner were dispensed with verbally by respondent No. 2 on 01.10.1994. Petitioner preferred Civil Writ Petition No. 15102 of 1994 against his termination and the said writ petition was dismissed vide order dated 02.04.1997. Thereafter, petitioner preferred a Letters Patent Appeal against the said order and the same was disposed of vide order dated 21.09.2004 and the following order (as reproduced in Para 5 of the present writ petition) was passed:--

"In the result, the appeal is allowed. The order of Learned Single Judge is set aside and the case is remanded for decision on merits".

3. Thereafter, the writ petition was disposed of vide order dated 24.02.2008 and following order (as reproduced in the present writ petition) was passed:

"In view of the statement made by the Learned Counsel for the petitioners, the petitioners are relegated to the remedy under the Industrial Disputes Act. The period taken for adjudication of the present writ petition shall be excluded for the purpose of demand notice under section 2A of Industrial Disputes Act, 1947. In case demand notice under section 2A of Industrial Disputes Act is made by the present petitioners, the same shall be expedited by the Government without delay. In case the Labour Court receives the reference, the same shall be expedited preferably within 6 months of its receipt."

4. Thereafter, petitioner raised an industrial dispute alleging that his services had been terminated without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Vide the impugned award dated 2.12.2011 (Annexure P-6), the claim of the petitioner was dismissed.

Para 2 of the said award reads as under:--

"No evidence produced by workman. Adjournment request by Ld. AR for the workman to produce evidence, but there is no ground for adjournment as the workman has failed to produce any evidence despite availing five opportunities extending over a period of 17 months. On 15.07.2011, when the case was fixed for evidence of workman adjournment was requested by his AR submitting that on the next date of hearing the workman shall conclude his evidence failing which his evidence be deemed to be closed. Statement of Ld. AR of the workman to that effect was recorded and case was adjourned to 22.09.2011. On said date adjournment was requested by proxy AR for workman on the ground that Sh. Chetan Anand AR of workman had gone out of station. On said ground one more opportunity was allowed. But today also no evidence is produced by the workman. Therefore, the evidence of the workman is closed by court order and since the workman has failed to produce any evidence in support of his claim, he is not entitled to any relief and his claim is dismissed."

5. A perusal of impugned award Annexure P-6 reveals that the same was passed in the presence of the representative of the petitioner. The said award was passed on 02.12.2011. However, the petitioner has challenged the said award by filing the present writ petition in December, 2015. Since the petitioner had failed to challenge the award passed by the Industrial Tribunal-cum-Labour Court within reasonable time and has waited for four years, a presumption arises that the petitioner was not prosecuting his case diligently. Before the Industrial Tribunal-cum-Labour Court, the matter remained pending for seventeen months for evidence of the petitioner, but he had failed to lead any evidence despite sufficient opportunities granted to him. In the facts and circumstances of the present case, no ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India, is made out.

Dismissed.