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**(2001) 03 P&H CK 0182**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 3685 of 2001**

Ram Karan

APPELLANT

Vs

Presiding Officer, Labour Court, Panipat

RESPONDENT

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**Date of Decision :** 14-03-2001

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227  
Criminal Procedure Code, 1973 (CrPC) — Section 482  
Industrial Disputes Act, 1947 — Section 10

**Citation :** (2001) 03 P&H CK 0182

**Hon'ble Judges :** S.S. Sudhalkar, J; Mehtab S. Gill, J

**Bench :** Division Bench

**Advocate :** J.V. Yadav, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

S.S. Sudhalkar, J.—This writ petition has been filed by the workman challenging the award of the Labour Court dated 20.11.1997 (copy annexure P/2) vide which his prayer for reinstatement and consequential benefits was rejected.

2. The petitioner was appointed as Peon on 27.1.1977. He was terminated on 23.9.1978. He raised an industrial dispute vide demand notice dated 26.7.1995, because of which reference was made to the Labour Court. The case of the petitioner is that there was a criminal case registered against him and his services were terminated because of the said criminal case. The criminal case prolonged for a long time and ultimately he filled an application u/s 482 Cr. P.C. in the High Court for quashing of the FIR and the same was quashed on 8.7.94. According to the petitioner as his services were terminated due to the pendency of criminal case, the cause of action for issuing demand notice arose after the quashing of the FIR in that case and, therefore, there is no delay. The Labour Court rejected the claim of the petitioner because of delay.

3. Respondent No. 2 has taken up a contention that the petitioner has not completed 240 days of service; that he was arrested by the police in an

embezzlement case; that after his released on bail the workman never reported for duties and absented himself and that new recruitment of Salesman was made in the absence of the petitioner and the petitioner never raised any objection till the date of the demand notice.

4. The learned Labour Court has observed that the management had appointed Gurmail Singh to look alter the work of the Society in place of the petitioner. It also observed that the petitioner did not inform the respondent-management that because of pendency of criminal case he was not in a position to report for his duties. He kept silent and waited for the decision in the criminal case. It was also observed by the Labour Court even otherwise the management did not keep all the records concerning its workman for such a long time and if at this stage the petitioner is held entitled to any relief, it would affect another employee who has rendered 17 years of service.

5. Learned counsel for the petitioner argued that the services of the petitioner was terminated because of the criminal case and when the FIR was quashed, he got the cause of action for rising a dispute and, therefore, there is no delay on the part of the petitioner. We are not in a position to accept this argument. It is not the case of the petitioner that he was in custody for such a long time. Even the demand notice was issued after about 11 months of the quashing of the F.I.R, Moreover, the case of the respondent-management is that the petitioner had absented himself even after he was released on bail in the criminal case. It is not admitted that the service of the petitioner was terminated.

6. Counsel for the petitioner on being asked stated that there was no written order of termination of service and it was only on the oral order that the service of the petitioner was terminated. This argument is difficult to be accepted. When in the absence of any written order, the petitioner was not allowed to join his duty, he would have immediately raised an objection to the same. This is not done. It is the petitioner who absented himself even after the release on bail. If under these circumstances, a new person is appointed in his place, should he suffer the loss of his service because of the delay and laches on the part of the petitioner ? Not only the petitioner did not file the demand notice earlier but, as stated about, the demand notice was issued after 11 months of the FIR being quashed. Moreover, it is pertinent to note that the award of the Labour Court is dated 20.11.1997 and till March 3, 2001 the petitioner did not find it necessary to challenge the same. So there is delay on the part of the petitioner at the following stages :

"1. When he absented himself from joining his duty after his releas on bail;

2. He kept silent even after the FIR was quashed;

3. He has not taken any interest to challenge the award dated 20.11.1997 of the Labour Court till March 3, 2001.

7. In view of the above, the case of the petitioner has become stale. Hardship

will be caused not only to the management for locating its earlier record for the purpose of continuity of service of the petitioner (leaving aside the question of back wages) but also to the other workman who has joined the service in place of the petitioner. In the case of Brij Bhushan v. Industrial Tri-bunal and Ors., 1998(3) SCT 17 (P&H)(DB) : 1998(2) RSJ 449, a Division Bench of this Court after considering the judgment of the Supreme Court has observed as under;

"The decisions of the Supreme Court in Surendra Kumar's case (supra) and this court in Rajindcr Singh's case (supra) clearly laid down the proposition that in appropriate cases relief of reinstatement and/or back wages can be denied to the workman even though the termination of his service by way of retrenchment is held to be invalid due to the violation of Section 25-F or 25-G. However, the examples given in those decisions are only illustrative. There may be many other eventualities in which the Tribunal or the Labour Court may refuse to give relief of reinstatement....."

8. In view of the above position, it is clear that it is not in all the cases where the termination of service is held to be invalid, the relief of reinstatement and/or back wages has to be given to the workman.

9. In the result, in the present case the delay has gone unexplained. We do not find any reason to interfere with the award of the Labour Court. Dismissed.

Petition dismissed.