
(1997) 11 P&H CK 0087
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 11705 of 1997

Sukhjinder Singh

APPELLANT

Vs

Director, State Transport and Others

RESPONDENT

Date of Decision : 24-11-1997

Acts Referred:

Industrial Disputes Act, 1947 — Section 29, 33C(2)

Citation : (1999) 3 LLJ 1022 : (1998) 119 PLR 149

Hon'ble Judges : Sarojnei Saksena, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : B.R. Mahajan, for the Appellant; Rupinder Ghosh, for the Respondent

Final Decision : Allowed

Judgement

G.S. Sevghvi, J.—By this order, we are deciding the above mentioned two petitions one of which has been filed by the workman for directing the respondents to implement the award dated June 1, 1993 passed by the Labour Court, Gurdaspur and the other has been filed by the employer for quashing of the said award.

2. The facts necessary for deciding these petitions are that on February 3, 1989, Sukhjinder Singh served a demand notice upon the General Manager, Punjab Roadways, Pathankot claiming reinstatement with continuity of service and full back wages by alleging that after he had continuously worked from January 6, 1988 to December 31, 1988, the employer terminated his service without charge sheet, notice and retrenchment compensation. On account of parties failure to settle the dispute the government made a reference u/s 10(1)(c) of the Industrial Disputes Act, 1947 (for short "the Act"). In the statement of claim filed by him, the workman pleaded that he was employed as a Helper Electrician since January 1988, and his service was terminated w.e.f. December 31, 1988 without any charge-sheet, enquiry and without payment of retrenchment compensation. He prayed for reinstatement with continuity of service and full back wages. In the written statement filed on behalf of the respondent, namely,

the General Manager, Punjab Roadways, Pathankot, it was stated that the workman has worked in the Punjab Roadways for some time on daily wages as per the rates approved by the Deputy Commissioner, Gurdaspur. He further stated that the workman was not appointed on permanent basis and that he was not getting Rs. 900/- per month as wages. The assertion of the workman regarding the termination of service was also denied and it was pleaded that he was appointed for specific period and after the expiry of the period he was not allowed to work because no work was left for him.

3. Before the Labour Court the workman Sukhjinder Singh appeared in the witness box to support his claim and made the following statement:

"W.W.I.: Sukhjinder Singh S/o Mukhtiar Singh aged 26 years, Village Guzarapura Distt. Amritsar on SA.

I was employed as Helper Electrician and I worked for more than 240 days prior to the date of my termination. My services were terminated without one month notice, or pay in lieu thereof and without payment of ret. Compensation. Juniors to me have been retained in service. I worked as per Ex. W.I. I have remained unemployed since termination and could not find any job. I may be reinstated with continuity of service and full back wages.

XX XX XX XX I was appointed on April 6, 1988 and worked till December 31, 1988. I was being paid as daily wages. Prior to the alleged date of employment I worked as Apprentice also for one year. I was being employed on 3 months basis. It is incorrect that I have remained gainfully employed after my termination.

ROAC (Sd/-)

April 2, 1993

Sd/- P.O."

4. On behalf of the General Manager, Shri Gopal Singh, Workshop Clerk appeared and made the following statement:-

"Present: Rep. of the parties, M.W.I. Gopal Singh Workshop Clerk, PB. Rd. Pathankot, on S.A.

The workman Sukhjinder Singh was appointed on daily wages as Helper Electrician w.e.f. April 6, 1988 and he worked upto December 31, 1988. Without rests and holidays he worked 177 days. The workman was being paid on daily wages fixed by the D.C. Gsp. He was paid Rs. 546/- in the month of December 1988 @ Rs. 21/- per day.

XX XX XX XX

It is incorrect that I have not brought the Attendance and Payment Register and the personal file of the workman as well as original appointment letter which if brought would be against the dept. The work which the workman was doing still

exists. I have not brought the appointment register of new helper for the relevant period thereafter. It is correct that the retrenchment compensation or notice pay was paid. (Vol.) As it was not necessary Calculation of 177 days is without rests and holidays and without N/F holidays I have not brought the record relating to the concerned workman prior to April, 1988. It is incorrect that juniors to the workman are in service. It is incorrect that I am deposing falsely. I cannot say whether the workman was in employment since March, 1987.

ROAC

Sd/-

December 15, 1992

P.O.

Statement of Sh. Chander Kant for the respondent I close the evidence.

Sd/-, P.O."

5. After considering the oral and documentary evidence produced by the parties, the Labour Court recorded the following findings :

"As far as this issue is concerned, the workman Sukhjinder Singh has stated while appearing as WW1 that he worked for more than 240 days prior to the date of termination of his service. He was employed as Helper. In his cross-examination he stated that he was employed in January 1988 and he worked till December 31, 1988. This fact has also been corroborated and supported by Gopal Singh, Workshop Clerk appearing as MW/1. He has also stated that Sukhjinder Singh was appointed on April 6, 1988 and he worked upto December 31, 1988. However, he also stated that he worked for 177 days only without rests and holidays. In cross examination also he admitted that the calculations of 177 days have been made without rests, holidays and without national and festival holidays. However, the procedure for counting the working days adopted by Gopal Singh MW/1 is not correct because rests/Sundays and national and festival holidays have to be counted in the working days. In Chaggan Lal Vs. Panchayat Samiti and Another, 1 in case Chagan Lal v. Panchayat Samiti and Anr., held as under:-

"Industrial Disputes Act, 1947, Sections 25-F, 25-B, Continuous service of 240 days".

Computation-Sunday and paid holidays are to be taken into account-Driver appointed on daily wages in leave vacancy- completing 240 days continuous service (including Sundays and paid holidays) could not be terminated without complying with Section 25f(a)(b)". This ruling is applicable to the facts of the case in hand and if the Sunday/rests and national and festival holidays are counted then the period comes to 259 days as per the Ex. W.I. the file of the case that the workman had put in more than 240 days work or one year continuous service under the respondent at the time of his termination.

Admittedly, no notice pay or retrenchment compensation was paid and as such the termination is clearly illegal and void as it is against the provisions of Section 25-F of the Act. I, therefore, decide this issue in favour of the respondent".

6. On the basis of its finding that the termination of the service of the workman was illegal and void, the Labour Court ordered his reinstatement but denied back wages to him on the ground that the demand raised by the workman was belated.

7. Soon after the pronouncement of the award the workman Sukhjinder Singh submitted the joining report dated November 4, 1993, but the same was not accepted. The Labour Inspector Grade- II, Pathankot gave notice to the General Manager, Punjab Roadways, Pathankot, to appear before him and show cause as to why recommendation for filing of challan u/s 29 be not sent. The workman wrote letters dated January 4, 1994, July 4, 1994, November 21, 1994, June 5, 1995, November 7, 1995, March 7, 1996, November 7, 1996 and March 21, 1997, but failed to evoke any response from the authorities. Ultimately, he served registered notice dated June 26, 1997, for his reinstatement. That also proved ineffective because the employer did not bother to reinstate him in the service.

8. When C.W.P. No. 11705 of 1997, filed by the workman was listed for motion hearing, the Court directed the counsel for the petitioner to hand over two copies of the petition to the learned Deputy Advocate General and adjourned the hearing to August 27, 1997, On the next date of hearing i.e. August 27, 1997 it was adjourned to September 17, 1997, on which date the Courts directed the respondent No. 2 to personally appear because the learned Deputy Advocate General made a statement that nobody has come to brief him although he had written twice to the General Manager, Punjab Roadways, Pathankot. On the next date of hearing i.e., October 3, 1997, the Court noticed that the respondent No. 2 was not present and directed that bailable warrant be issued for November 24, 1997. In compliance of the bailable warrant, the General Manager, Punjab Roadways, Pathankot has appeared in person and has pleaded that the award dated June 1, 1993 has not been implemented because of the stay order passed by this Court in C.W.P. No. 14323 of 1997.

9. In his writ petition the workman has prayed that the respondent Nos. 1 and 2 be directed to implement the award which has become final and under which a valuable right has accrued to him to be reinstated in service along with wages. The respondent Nos. 1 and 2 have contested the writ petition by stating that the workman had not completed 240 days of service in the preceding 12 months and, therefore, he was not entitled to the benefit of Sections 25-F, 25-G, and 25-H of the Industrial Disputes Act, 1947 and the award passed by the Labour Court is erroneous. The respondents have also relied on the order Annexure R.3 dated September 8, 1997 issued by the respondent No. 2 to show that the workman has not presented himself for duty since the publication of the award.

10. C.W.P. No. 14323 of 1997 has been filed by the General Manager, Punjab

Roadways for quashing of the award on the ground that the Labour Court has seriously erred in recording the finding that Sukhjinder Singh had worked for a continuous period of one year. To support this assertion, Annexures P. 1 to P. 22 have been placed on the record.

11. We shall first take up C.W.P. No. 14323 of 1997 because the decision of this writ petition will directly affect the fate of C.W.P. No. 11705 of 1997.

12. Sh. Rupinder Khosla, learned Deputy Advocate General argued that the findings of fact recorded by the Labour Court about the total period of service rendered by the workman is perverse because the documentary evidence produced on behalf of the employers has been completely ignored by the Court below. Shri Khosla submitted that Annexure P. 1 to P. 22 clearly prove that the workman was engaged as daily wage Helper Electrician w.e.f. April 1, 1988 and his service came to an end on December 12, 1988 and during this period he had worked only for 120 days. Shri Khosla submitted that the finding recorded by the Labour Court without considering the evidence produced by the employer is ex-facie perverse and, therefore, the impugned award should be quashed. Shri B.R. Mahajan, learned counsel for the workman submitted that the documents filed as Annexures P.1 to P. 22 along with the writ petition have been fabricated by the respondents in order to defeat the right acquired by the workman to be reinstated in the service on the strength of the impugned award and as none of these documents was tendered in evidence before the Labour Court, this Court should not take the same into consideration while exercising certiorari jurisdiction. Shri Mahajan submitted that the employer should not be permitted to make out a new case by introducing some documents which do not form part of the record of the Labour Court. Learned counsel strenuously urged that the writ petition filed after more than four years and three months of the announcement of the award should be dismissed only on the ground of laches.

13. In answer to the query made by us Shri Khosla replied that Annexures P.1 to P. 22 had been filed before the Labour Court. However, after perusing the record of the Labour Court, we are convinced beyond any shadow of doubt that the statement of Shri Khosla is far from being correct. The file of the Labour Court contains the impugned award running into five pages, the order sheets recorded on four different sheets, the order of reference, the demand notice, the statement of claim, the written statement, the oral statements of Gopal Singh and Sukhjinder Singh, the Photostat copies of the judgment titled as Chaggal Lal v. Panchayat Samiti and Anr., (supra), a chart showing the total working period of Sukhjinder Singh, which has been marked as Exh. W. 1 and a copy of the notice issued by the Labour Court. No other document exists on the record of the Labour Court. Thus it can be said that the documents P.1 to P. 22 filed along with C.W.P. No. 14323 of 1997 were not produced before the Labour Court. Indeed, it has not been pleaded by the employer that any person other than Shri Gopal Singh had appeared as a witness on its behalf and had tendered these documents in evidence. In his statement, Gopal Singh, did not make reference to

the documents marked as Annexures P.1 to P.22. Thus we are left to conclude that the documents marked as Annexures P.1. to P.22 have been produced by the employer for the first time before the writ Court and in our view while exercising certiorari jurisdiction the High Court cannot permit a party to produce such evidence which was not produced before the lower Court or Tribunal. The parameters of certiorari jurisdiction have been clearly spelt out by the Apex Court in more than one decision and it must be treated a settled proposition of law that ordinarily the High Court must confine its consideration to the record of lower Court, Tribunal or quasi-judicial authority while deciding whether the impugned judgment, award or order suffers from error of law. The petitioner cannot be allowed to make out a new case or produce fresh evidence except in rare cases and the present one is certainly not a case of that type.

14. We find substantial merit in Shri Mahajan's plea that these documents appear to have been fabricated by the petitioner in order to mislead the Court. Admittedly, the award impugned in the writ petition was passed more than four years and three months prior to the institution of the writ petition. The General Manager, Punjab Roadways, Pathankot has not explained as to why he did not produce these documents before the Labour Court. It has also not been explained as to why he kept silent for a period of four years and three months. Total absence of explanation on these two rival aspects of the case militates against the bona fides of the petitioner. Therefore, we refuse to entertain the petitioner's plea that the impugned award should be declared as erroneous in law on account of non- consideration of the material evidence.

15. Whether the writ petition filed by the employer should be dismissed on the ground of delay and laches is the next question which calls for our consideration. At the cost of repetition, we deem it necessary to mention that there is a time gap of over four years and three months between the dates of the pronouncement of award and the filing of the writ petition. Even if we take the date of publication of the award i.e. November 8, 1993 is taken into consideration, the petition is belated by about four years. In the writ petition, not a word has been said as to why the petitioner did not seek invalidation of the award for such a long time although the workman and the labour Inspector were pressing hard for implementation thereof. During the course of arguments also the learned Deputy Advocate General had no explanation to offer. Therefore, we have no difficulty in recording the conclusion that the petitioner is guilty of laches. The very fact that the employer filed writ petition to challenge the award after receiving the notice of C.W.P. No. 11705 of 1997 filed by the workman shows that with a view to avoid the charge of callous negligence in implementing the award, the concerned officer manipulated the filing of the writ petition after almost four years of the publication of the award. In our opinion, there is no justification to quash the award in a petition filed after almost four years of its publication.

16. This brings us to C.W.P. No. 11705 of 1997 filed by the workman. The

uncontroverted facts which have come on the record of this petition show that the workman has been running from pillar to post to get the award implemented and he has invoked the extraordinary jurisdiction of the High Court after having felt convinced that the administrative authorities will not do justice to him.

17. Learned Deputy Advocate General urged that this Court should not entertain the writ petition because the petitioner can pursue the remedies available to him under Sections 29 and 33-C(2) of the Act of 1947. However, we are not at all impressed with this argument. Neither of these remedies can be termed as effective alternative remedy for the purpose of denying relief to the petitioner under Article 226. The very vesting of the discretion in the administrative authorities to sanction or not sanction the prosecution u/s 29 considerably reduces the efficacy of the so-called remedy. It is also legitimate to take judicial notice of the tardy and long procedure which has to be undergone before an application u/s 29 is decided. An employee has to pass through various channels of the Government before he can persuade the competent authority to spare its time for consideration of his request. The negative attitude adopted by the Labour Department of the Government even while making reference of the disputes and the time consuming procedure are the two factors which reduce the so-called remedy u/s 29 to a farce. If the Government refuses to sanction the prosecution or fail to take a decision on the application of the workman he is left with no option but to approach the High Court under Article 226 for passing of an appropriate order. Moreover, the maximum that can happen in the proceeding u/s 29 is that the person who is found guilty of non-implementation of the award is convicted and punished. However, the prosecution of defaulting party or its conviction and punishment does not give substantive relief to workman. Thus the workman cannot get any relief by making application u/s 29.

18. u/s 33-C(2) also the Labour Court can do no more than to make an order for payment of wages. In exercise of power under that Section the Labour Court cannot compel the employer to reinstate the employee in service. That apart the passing of an order u/s 33-C(2) cannot guarantee even the monetary relief to the workman. If the order made u/s 33-C(2) is not complied with, the Labour Court can send a certificate for recovery of the dues in the form of land revenue. It is then left to the administrative authorities to enforce the recovery. An unscrupulous employer can easily manage non-execution of the recovery orders. In such a situation the workman is again left with no option but to invoke the writ jurisdiction of the High Court.

19. This all shows that the so-called remedies available to the workman to secure prosecution of the employer u/s 29, which also depends on the proper exercise of the discretion by the Government or making of an order u/s 33-C(2) of the Act of 1947 cannot give substantial relief to the workman. An effective remedy is one by means of which a right of the workman can be enforced and violation thereof can be prevented. If availing of the remedy depends on the discretion of others, it can hardly be termed as a remedy in the real sense. We, therefore, hold that

the so-called remedies available under Sections 29 and 33-C(2) are not equally efficacious alternative remedies so as to non-suit the aggrieved workman.

20. We have also to bear in mind that the rule of non-entertaining the writ petition filed under Article 226 on the ground of availability of equally efficacious alternative remedy is a rule of self-imposed restraint and a rule of caution. It is neither a rule of law nor a rule of thumb which can be applied in each and every case to non-suit a petitioner irrespective of the nature of his grievance. Whenever an objection of this type is raised, the Court has to find out as to what is the nature of grievance made by the petitioner and what type of alternative remedy is available to him. The Court cannot completely be oblivious of its constitutional duty to do justice to the citizens. A greater amount of diligence is required to be shown in the cases involving violation of legal and fundamental rights of the citizens. The proliferation of governmental activities in a Welfare State like ours has affected the lives of the people in more than one way. Enlargement of the field of State activities has made great impact on the rights of the people. There has been a tremendous increase of arbitrariness in the State actions. The worst is that the public authorities and particularly the administrative authorities have developed an attitude of total insensitiveness towards the needs of the people. This has naturally compelled the people to look upon the Courts for solace and redress of injustice. No doubt, this has led to an immense increase in the volume of litigation but that should not threaten the Courts and there is no need to accept the specious argument of evolving methodologies to non-suit those who are really aggrieved by State action of arbitrariness of public authorities. The Courts have to guard themselves against the allegation of being protector of "haves" in the society. Denial of relief to the poor and small man on the grounds like availability of alternative remedy will not do any good to the system.

21. In this context another important fact which has to be kept in mind is that right to livelihood has been recognised as a part of right of life guaranteed by Article 21 of the Constitution of India. Upto 1991 stray observations were made by the Courts on this aspect but in *Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress and Others*, a Constitution Bench of the Supreme Court has in no uncertain terms recognised the wider parameters of the concept of life used in Article 21. In his judgment P.B. SAWANT, J. observed as under at P459:-

"The employment under the public undertakings is a public employment and a public property. It is not only undertaking but also the society which has a stake in their proper and efficient working. Both discipline and devotion are necessary for efficiency. To ensure both the service conditions of those who work for them must be encouraging, certain and secured, and not vague and whimsical. With capricious service conditions, both discipline and devotion are endangered, and efficiency is impaired. The right to livelihood therefore cannot hang on to the fancies of individuals in authority. The employment is not a bounty from them nor can its survival be at their mercy. Income is the foundation of any

fundamental rights and when work is the sole source of income the right to work becomes as much fundamental. Fundamental rights can ill-afford to be consigned to the limbo of underlined premises and uncertain applications. That will be a mockery of them."

K. RAMASWAMY, J. expressed himself in these words at P. 471:

"The right to life, a basic human right assured by Article 21 of the Constitution comprehends something more than mere animal existence i.e. dignity of the individual. FIELD, J. in *Munn v. Illinois* (1876) 94 US 113 held that by the term "life" as here used, something more is meant than mere animal existence. The inhabitation against its deprivation extends to all those limbs and faculties by which life is enjoyed. The deprivation not only of life but of..... if its efficacy be not fettered away by judicial decision. In *Kharak Singh Vs. The State of U.P. and Others*, this Court approved the definition of life given by FIELD, J. in his dissenting opinion. In *Olga Tellis v. Bombay Municipal Corporation*, this Court further laid that an equally important facet of the right to life is the right to livelihood because no person can live without the means of livelihood. If the right to livelihood is not "treated as a part of constitutional right to life, the easiest way of depriving a person of his right to life would be to the point of abrogation.....

That, which alone can make it possible to live, leave aside which life livable, must be deemed to be an integral component of the right to life... The motive force which propels their desertion of hearths and homes in the village is the struggle for survival, that is the struggle for life. So unimpeachable is the nexus physical existence but includes basic human dignity vide *Menaka Gandhi v. Union of India*.
"

22. In *D.K. Yadav Vs. J.M.A. Industries Ltd.*, the Apex Court again declared that right to life included the right to livelihood and observed:-

"Article 21 clubs life with liberty, dignity of person with means of livelihood without which the glorious content of dignity of person would be reduced to animal existence. When it is interpreted that the colour and content of procedure established by law must be in conformity with the minimum fairness and processual justice, it would relieve legislative callousness despite opportunity of being heard and fair opportunities of defence. The order of termination of the service of an employee/workman visits with civil consequences of jeopardising not only his/her livelihood but also career and livelihood of dependents. Therefore, before taking any action putting an end to the tenure of an employee/workman fair play requires that reasonable opportunity to put forth his case is given and domestic inquiry conducted complying with the principles of natural justice."

24. In *Olga Tellis and Others Vs. Bombay Municipal Corporation and Others*, , a Constitution Bench gave a new meaning to the word "life" used in Article 21 and recognised rights of the pavement dwellers. Their Lordships held:

"The right to life includes the right to livelihood. The sweep of the right of life conferred by Article 21 is wide and far reaching. It does not mean merely that life cannot be extinguished or taken away as for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important facet of that right is right to livelihood is not treated as a part of the constitutional right of life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable must be deemed to be an integral component of the right to life, deprive a person of his right to livelihood and you shall have deprived him of his life."

25. It is significant to note that in *State of Maharashtra Vs. Chandrabhan Tale*, their Lordships of the Supreme Court had declared (VARADARAJAN, J.) that public employment is property of the nation which has to be shared equally. In that very judgment, CHINNAPPA REDDY, J. held that public employment opportunity is a national wealth in which all citizens are equally entitled to share.

26. Having given this wider meaning to the term "life" the Court cannot shirk from its responsibility to protect the right to livelihood of the individuals. The Court cannot shut its eyes from the reality that in our country public employment is an important source of livelihood to individuals and the service jurisprudence which has developed during last four decades had perhaps no parallel in the world. If the Courts have safeguarded the right to speech and expression, the right of business, the right to property, the right to form association, it cannot remain oblivious and ignore the rights of millions who are deprived of the source of livelihood by arbitrary, capricious and whimsical actions of State and its agencies. The Court cannot throw out a petition merely because it has been filed by a small man by declaring that he has an alternative remedy. So declaring that he has an alternative remedy, so called sacrosanct rights which are treated as basic rights even by Universal Declaration of Human rights of 1948, will remain mere paper rights if the man is not in a position to sustain himself and his family. It is, therefore, of vital importance for the Court as well as for the citizens that right to livelihood is adequately protected. In the words of *Life Insurance Corporation of India Vs. Escorts Ltd. and Others*, , the Courts wilt have to devote more time and attention to the little citizens of this country. His Lordship started the decision in that case with the following words:-

"Problems of high finance and the broad fiscal policy which truly are not and cannot be the province of the Court for the very simple reason that we lack the necessary expertise and which, in any case, are none of our business are sought to be transformed into questions involving broad legal principles in order to make

them concern of the Court. Similarly, what may be called the "political" process of "corporate democracy" are sought to be subjected to investigation by us by invoking the principle of the Rule of Law, with emphasis on the rule against arbitrary State action. An exposition of the facts of the present case will reveal how much legal ingenuity may achieve by way of persuading Courts, ingenuously, to treat the variegated problems of the world of finance, as litigable public right questions. Courts of justice are well tuned to distress signals against arbitrary action. So corporate giants do not hesitate to rush to us with cries for justice. The court room becomes their battle ground and corporate battles are fought under the attractive banners of justice, fair play and the public interest. We do not deny the right of corporate giants to seek our aid as well as any Lilliputian farm labourer or pavement dweller though we certainly would prefer to devote more of our time and attention to the latter. We recognise that out of the dust of the battles of giants occasionally emerge some new principles, worth while. That is how the law has been progressing until recently. But not so now. Public interest litigations and public assisted litigations are today taking over many unexpected fields and the dump are finding their voice".

27. In Jagdish Chand Vs. Labour Commissioner and Others, one of us dealt with an almost identical case and held that relief cannot be denied to the workman merely because he has not availed of the so-called remedies available u/s 29 and 33-C(2) of the Act.

28. Coming back to the facts of C.W.P. No. 11705 of 1997, we find that the employer has not given any reason as to why it failed to reinstate the workman. The letter Annexure R.3 dated September 8, 1997 filed along with the written statement appears to have been concocted to give some semblance of justification to the inaction of the authorities. However, that cannot (sic.) afford any validity to the utter negligence demonstrated by the concerned officer to implement the award which caused grave injury to the petitioner and loss to the public exchequer because the workman will have to be paid without doing work for over four years and six months.

29. On the basis of the above discussion, we hold that the writ petition No. 14323 of 1997 is meritless and it is liable to be dismissed. Ordered accordingly. The petitioner shall pay costs of Rs. 5,000/- to the workman. The amount of costs shall be recovered from the salary of the officer(s) responsible for filing frivolous and belated petition. Writ petition No. 11705 of 1997 is allowed with costs of Rs. 5,000/-. The respondents are directed to reinstate the petitioner forthwith. For wages between the date of award and the date of this order the workman shall get salary subject to his filing an affidavit that he was not gainfully employed during this period. We also give liberty to the Government to initiate proceedings for prosecution of the officer(s) responsible for not implementing the award for a period of almost four years.