

(2018) 02 DEL CK 0245

In the Delhi High Court

Case No : Civil Writ Petition No. 1162 Of 2018

Vishal

APPELLANT

Vs

University Of Delhi

RESPONDENT

Date of Decision : 07-02-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 02 DEL CK 0245

Hon'ble Judges : Vinod Goel, J

Bench : Single Bench

Advocate : Chandni Sadana, Onkar Singh, Ajay Pratap Singh, Santosh Kumar

Final Decision : Dismissed

Judgement

Vinod Goel, J

1. The petitioner has invoked the writ jurisdiction of this court under Article 226 of the Constitution of India for quashing of the impugned Award dated

29.06.2012 passed by the learned Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-I, Karkardooma Courts, Delhi

(hereinafter referred to as "Industrial Adjudicator") in ID Case No. 8/2011 answering the reference against him.

2. On an advance copy having been served, Mr.Santosh Kumar, Advocate appears for the respondent/management.

3. There is absolutely no plausible explanation offered by the petitioner for the exorbitant and abnormal delay of more than five years in approaching

this court. Though no period of limitation is prescribed for filing a petition under Article 226 of the Constitution of India but there is no rule of universal

application for condonation of delay. Though, there may be no period for limitation prescribed for filing the petition under Article 226 of the

Constitution of India yet the person aggrieved should approach the court without loss of time and if there is a delay, the petitioner must offer cogent

explanation. The line of decision of the Honâ??ble Supreme Court on the issue would be indicative that the courts have evolved self imposed

restraints in inquiring into belated or stale claims. One who is tardy, not vigilant and does not seek intervention of the Court within a reasonable time

from the date of arising of the cause of action or alleged violation of the constitutional, legal or other right, is not entitled to relief under Article 226 of

the Constitution of India. Since the petitioner has not offered any just explanation in his writ petition. Same is held to be barred by time and laches and abnormal delay.

4. Even on merits, it is noted that the following reference was made by the appropriate Government to the Industrial Adjudicator: -

â??Whether the action of the University of the Registrar of Delhi University, Delhi, in terminating the services of Shri Vishal, S/o late Shri

Mahender Singh with effect from 01.11.2006 is legal and justified? To what relief the workman is entitled?

5. In support of his case, the petitioner examined himself as WW-1. His examination-in-chief was partly recorded on 09.03.2011 and 22.07.2011. He

appeared for cross-examination on 04.11.2011 and thereafter the petitioner did not appear for his cross-examination. Industrial Adjudicator noted that

the petitioner failed to appear on several subsequent dates i.e. 16.11.2011, 28.12.2011, 09.02.2012, 20.03.2012, 23.04.2012, 15.05.2012 and 28.06.2012

and the Industrial Adjudicator was constrained to close the evidence of the petitioner.

6. On behalf of respondent/management Sh. G.K. Singh tendered his affidavit in evidence testifying that the petitioner had abandoned the job on

01.11.2006. Thereafter, the petitioner filed an undated application for the first time on 14.05.2009 seeking permission to resume his duties. His mother

Smt. Sudesh moved an application dated 09.03.2007 confirming that after his marriage the petitioner left for Portblair in December, 2006 where his in-

laws have been residing. He went to Portblair to settle himself there. Industrial Adjudicator was satisfied that this is the sufficient reason to conclude

that the petitioner had abandoned his job on 01.11.2006.

7. The petitioner has failed to prove that his services were terminated by the

respondent/management. On the given facts Industrial Adjudicator has come to a right conclusion that in fact the petitioner had abandoned his job. In these circumstances, the respondent/management cannot be blamed

that the services of the petitioner were terminated by it. In fact the petitioner is himself guilty of abandoning the job without any justification.

Therefore, even on the merits, I do not find any illegality or perversity in the impugned award dated 29.06.2012.

8. As such the petition is accordingly dismissed.