



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No. _____ of 2025
(@ Special Leave Petition (C) No.444 of 2024)**

State of Uttar Pradesh

...Appellant

Versus

Krishna Murari Sharma

...Respondent

ORDER

Leave granted.

2. The State is aggrieved with the judgment of the High Court, which upheld the order of the Labour Court, in a reference regarding the validity of termination of the respondent workman affirming the award, which found the termination to be illegal and directed the employer to pay back wages to the workman for the period from 31.05.2006 to 01.04.2015; the date of commencement being the date of reference, since there was a 15 years delay occasioned. The question raised by the State is only on the delay occasioned, having disentitled the workman from challenging the order of termination.

3. Mr. Rana Mukherjee, learned Senior Counsel for the State submits that there is gross delay, which disentitles the order of back wages, but the State is not averse to a compensation, as declared by this Court in a series of decisions, which the learned Senior Counsel submits, the Advocate-on-Record has instructions to concede to a payment of Rs.99,000/- (Rupees Ninety Nine Thousand).

4. Mr. Sukumar Patjoshi, learned Senior Counsel appearing for the respondent vehemently opposes the argument and submits that the back wages would come to at least Rs.15,00,000/- (Rupees Fifteen Lakhs) and there could be no interference caused to the award on the ground of delay. Respondent-workman would rely on ***Shahaji v. Executive Engineer, PWD¹*** and ***U.P. State Electricity Board v. Rajesh Kumar²***. Learned Senior Counsel would contend that having not questioned the reference, there is no question of a contention on delay being taken at this stage or before the High Court, wherein it was first taken.

5. We have to immediately notice that though the reference as such was not challenged, the State had raised

¹ (2005) 12 SCC 141

² CA No.1343 of 2003 decided on 18.12.2003

a contention of delay in its written submissions filed at the first instance before the Labour Court, Bareilly as is revealed from Annexure P2. It was specifically contended that the respondent-workman was only engaged till October, 1990 on a monthly honorarium and he had not submitted a single application seeking reinstatement after his service ceased. It was also categorically averred that there was no justification for submitting the application seeking reinstatement after a gap of about more than 15 years from the date of termination of service.

6. As to the legal point, we notice that there are two distinct aspects on which there are two separate lines of decisions insofar as the issue of delay in seeking a reference. One of these is with respect to the challenge against a reference order itself, before the High Court under Article 226 of the Constitution of India and the other, the consequences of a delay while adjudicating a reference under the Industrial Disputes Act, 1947³.

³ For brevity 'the ID Act'

7. *National Engineering Industry v. State of Rajasthan*⁴,
held that though the Labour Court/Industrial Tribunal is not competent to examine the validity of the reference, the High Court under Article 226 of the Constitution of India is competent to examine it. It was categorically held that the High Court can entertain a writ petition challenging a reference on the ground of non-existence of an actual or apprehended industrial dispute. Following the said decision in ***Nedungadi Bank Ltd. v. K.P. Madhavankutty and Ors.*⁵**, it was held that when there is a stale issue referred for adjudication, its validity can be questioned under Article 226 of the Constitution of India on that ground. Therein the workman was dismissed after a lawful and proper disciplinary enquiry, his dismissal was upheld in an appeal and his legally due benefits in its entirety were also paid to him. Seven years after the dismissal, a dispute was raised, which was found to be bad not only on the ground of delay but as well as on the ground of no industrial dispute existing. The scope of judicial review insofar as a reference, though limited it might be, was upheld, negating the

⁴ (2000) 1 SCC 371

⁵ (2000) 2 SCC 455

contention that when a reference is made under Section 10 of the ID Act, the Labour Court has to perforce decide the same on its merits.

8. In the instant case, admittedly no such challenge under Article 226 of the Constitution of India was made against the reference; which does not prevent or prohibit the employer from raising the question before the Labour Court itself. Before going to the series of decisions on the consequences of a delay in seeking reference, we cannot but observe that the mere failure, or a conscious decision not to challenge, the reference under Article 226 of the Constitution of India before the High Court, on the ground of delay, can neither result in the contention being frustrated in every manner nor can there be a ground of acquiescence taken against such plea. This is the purport of the decisions, which we will immediately refer to hereunder.

9. ***Ajaib Singh v. Sirhind Coop. Marketing-cum-Processing Service Society Ltd. and Ors.***⁶ dealt with the question of delay of 7 years in approaching the appropriate

⁶ (1999) 6 SCC 82

Government for a reference, which was found to be fatal by the High Court, the Full Bench of which prescribed a limitation period of 5 years to seek a reference under Section 10 of the ID Act. It was held that the employer's plea of delay raised against adjudication of an industrial dispute ought to be fortified with proof of real prejudice and otherwise, a bland plea was not sufficient to deny relief to the workman. It was also held that even in cases of proved delay, relief can be moulded by declining whole or part of back wages. Therein, despite the delay the employer failed to raise the ground before the Labour Court and raised it for the first time before the High Court. For all the above reasons, this Court upheld the award of reinstatement and continuity of service, but considering the delay, limited the back wages from the date of issuance of notice of demand till the date of the award, to 60% and thereafter full back wages.

10. *Assistant Engineer Rajasthan State Agricultural Marketing Board v. Mohan Lal*⁷ was concerned with a limitation of 6 years. ***Ajaib Singh*⁶** was held to be not laying

⁷ (2013) 14 SCC 543

down an absolute proposition of law that where plea of delay is not raised by the employer, there would be no justification for moulding the relief. It was held noticing a series of decisions that the Labour Court considering the aspect of delay, at its discretion could mould the relief, since delay in raising an industrial dispute is definitely a circumstance to be reckoned by the Labour Court; though the Limitation Act, 1963 is not applicable to the references made under the ID Act. In the said case, in lieu of reinstatement, a compensation of Rs.1,00,000/- (Rupees One Lakh) was directed to be paid.

11. Even ***Shahaji***¹ relied on by the respondent-workman accepted the principle that the Labour Court, if finding the termination to be illegal could suitably mould the relief to be granted to the workman in view of the delay. ***Rajesh Kumar***² was a case in which the ground of stale claim was not raised before the Labour Court and was first urged before the High Court. As we noticed at the outset, in the present case, the failure of the State, or the conscious decision taken not to challenge the order of reference does not deny the employer-State the right to raise that

contention before the Labour Court. Moreover, the same had been raised at the first instance before the Labour Court and this is not a case where for the first time the ground of delay was urged before the High Court or before this Court.

12. Learned Senior Counsel for the State has also fairly submitted that he would not be averse to a lumpsum compensation being paid in lieu of the entire back wages as directed by the employer.

13. Taking the entire circumstances into account, especially the fact that there was a 16 year delay in seeking a reference, we are of the opinion that a lumpsum compensation of Rs.2,50,000/- (Rupees Two Lakhs and fifty thousand) would suffice. The order of the Labour Court as affirmed by the High Court are both set aside to the extent of reinstatement and award of back wages. While upholding the award regarding the illegality of the termination, reckoning the gross delay caused, a lumpsum compensation of Rs.2,50,000/- (Rupees Two Lakhs and fifty thousand) would be paid to the respondent-workman within a period of two months from the date of receipt of certified copy of this order. If the said sum is not paid within the

period stipulated, the State shall be liable to pay interest at the rate of 7% per annum from the date of expiry of the two-month period.

14. The appeal stands allowed with the above directions and pending application(s), if any, shall stand disposed of.

..... J.
(AHSANUDDIN AMANULLAH)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
December 17, 2025.