

SUB-DIVISIONAL OFFICER TELEGRAPH, BIJNOR
v.
THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM-LABOUR COURT, KANPUR AND ANR.

FEBRUARY 8. 2006

[ARIJIT PASAYAT AND R.V. RAVEENDRAN, JJ.]

Laches—Industrial dispute—Award by Industrial Tribunal—Original application thereagainst before Central Administrative Tribunal—Disposal thereof as not maintainable—Dismissal of writ application by High Court being highly belated—On appeal, held: In the facts of the case writ application was not belated—Matter remitted to High Court for adjudication on merit—Industrial disputes Act, 1947.

In an industrial dispute, Central Government Industrial Tribunal-cum-Labour Court passed an award in favour of workmen in 1992. Appellant-Department filed Original Application before Central Administrative Tribunal (CAT) and the same was admitted. CAT disposed of the matter in 1997 holding that in view of the judgment in *L. Chandra Kumar v. Union of India and Ors.*, JT (1997) 3 SC 589, the proceedings before it were not maintainable. Department filed Writ Application in 1998 before High Court, and the same was dismissed on the ground of laches, holding that it was highly belated. Hence the present appeal.

Allowing the appeal and remitting the matter to High Court for decision on merits, the Court

HELD: A perusal of the factual scenario that Original application was filed before Central Administrative Tribunal against the award and the same was disposed of as not maintainable, clearly indicates that the writ petition was not belated. [137-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3347 of 2000.

From the Judgment and Order 30.4.1998 of the Allahabad High Court in C.M.W.P. No. 15161/1998.

A S. Radhakrishnan, Ms. Sunita Sharma, V.K. Verma and Arvind Kumar Sharma with him of the Appellants.

The Judgment of the Court was delivered by

B **ARIJIT PASAYAT, J.** Challenge in this appeal is to the order passed by a Division Bench of the Allahabad High Court dismissing the writ petition filed by the appellant on the ground that an award passed by the Central Government Industrial Tribunal-cum-Labour Court, Kanpur (in short the 'Tribunal') was being assailed belatedly and the writ petition was dismissed on the ground of laches.

C Learned counsel for the appellant submitted that the approach of the High Court is clearly erroneous. It did not take note of the factual background and on the erroneous assumptions that an award of the Tribunal made in 1992 was being belatedly challenged, the writ petition was dismissed. He referred to several factual details which we shall deal with *infra*.

D There is no appearance on behalf of the respondents in spite of notice.

The order of the High Court reads as follows:

E "The petitioner has challenged award of 1992. The petition is highly belated and is dismissed on the ground of laches."

F Factual position which is almost undisputed is that some casual labourers raised a dispute before the Tribunal. The appellant took the stand that the concerned labourers who were casual workers had deliberately remained absent from duty for more than six months. Those six persons were engaged on daily wages basis in the Telecommunication Department under the SDO, Bijnor. When they reported back after their voluntary absence they were not given any benefit for the past service and it was decided to treat them to have joined w.e.f. 7.5.1985. The Tribunal by its award dated 17.3.1992 came to hold that there was, in fact, termination, and there was no compliance with requirements of Section 25-F of the Industrial Disputes Act, 1947 and, therefore, the action of the Department was illegal and unjustified. According to the Tribunal they were entitled to reinstatement with full back wages and consequential benefits. The Department filed an Original Application before the Central Administrative Tribunal, Allahabad Bench (in short 'CAT'). The Original Application was admitted on 5.5.1993 and stay on the direction for the payment of back wages was granted. Subsequently, it was brought to the

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notice of the CAT that in view of the decision of this Court in *L. Chandra Kumar v. The Union of India & Ors.*, JT (1997) 3 SC 589) the proceedings before the CAT were not maintainable. By order dated 17.12.1997 CAT disposed of the matter holding that the proceedings before it were not maintainable. It was, however, *inter alia* observed as follows: A

“Nothing in this order shall however, preclude the applicant from seeking redressal of his grievances from an appropriate forum.” B

The writ application was filed in February, 1998 and has been dismissed as afore-noted by order dated 30.4.1998.

A perusal of the factual scenario as noted above clearly indicates that the writ petition was not belated as was observed by the High Court. It is unfortunate that the High Court did not take note of the relevant factors and the intervening circumstances and by a cryptic order dismissed the writ application holding that it was highly belated. Had the High Court applied its mind to the factual background facts it could not have come to the conclusions as arrived at. It is true, if there is abnormal delay in filing a writ petition and there is no plausible explanation for the same, the Court can decline to entertain it on the ground of laches. But the fact situation is entirely different here. In paragraphs 47 to 50 of the writ petition filed before the High Court, all relevant details were indicated. Unfortunately, the High Court has not taken note of that. C D E

In the circumstances without expressing any opinion on merits, we set aside the order of the High Court and remit the matter to it for decision on merits.

The appeal is allowed. No costs. F

K.K.T.

Appeal allowed.