

Delay cannot itself be sufficient reason to reject an industrial dispute, nevertheless the delay cannot be unreasonable

U.P. State Road Transport Corporation v. Ram Singh , (2008) 17 SCC 627,

wherein there was delay of 13 years in raising dispute. In para-7, the Apex Court has observed that “this Court has in several decisions held that while delay cannot itself be sufficient reason to reject an industrial dispute, nevertheless the delay cannot be unreasonable.” It was further observed in the aforesaid decision that the mere fact that the respondent was making repeated representations would not justify his raising the issue before the Labour Court after 13 years.

It is for the workman concerned to show that he has raised the dispute within a reasonable time, and/or that he was not responsible for delayed decision. It was also observed that the delay cannot be condoned merely on surmises and conjectures.

U.P. State Road Transport Corporation v. Babu Ram, (2006) 5 SCC 433

it was observed that no formula of universal application can be laid down for determination of the question of delay and it would depend on facts of each individual case. Further, it was observed that it is for the workman concerned to show that he has raised the dispute within a reasonable time, and/or that he was not responsible for delayed decision. It was also observed that the delay cannot be condoned merely on surmises and conjectures.

Delay of 7 to 9 years condoned

S.M. Nilajkar . v. Telecom District Manager, Karnataka (2003 (4) SCC 27), the position was reiterated as follows:

“17. It was submitted on behalf of the respondent that on account of delay in raising the dispute by the appellants the High Court was justified in denying relief to the appellants. We cannot agree. It is true, as held in Shalimar Works Ltd. v. Workmen, AIR 1959 SC 1217 that merely because the Industrial Disputes Act does not provide for a limitation for raising the dispute it does not mean that the dispute can be raised at any time and without regard to the delay and reasons therefor. There is no limitation prescribed for reference of disputes to an Industrial Tribunal; even so it is only reasonable that the disputes should be referred as soon as possible after they have arisen and after conciliation proceedings have failed

particularly so when disputes relate to discharge of workmen wholesale. A delay of 4 years in raising the dispute after even re-employment of the most of the old workmen was held to be fatal in Shalimar Works Limited v. Workmen, AIR 1959 SC 1217). In Nedungadi Bank Ltd. v. K.P. Madhavankutty, AIR 2000 SC 839, a delay of 7 years was held to be fatal and disentitled to workmen to any relief. In Ratan Chandra Sammanta and others v. Union of India, 1993 AIR SCW 2214, it was held that a casual labourer retrenched by the employer deprives himself of remedy available in law by delay itself; lapse of time results in losing the remedy and the right as well. The delay would certainly be fatal if it has resulted in material evidence relevant to adjudication being lost and rendered not available. However, we do not think that the delay in the case at hand has been so culpable as to disentitle the appellants for any relief. Although the High Court has opined that there was a delay of 7 to 9 years in raising the dispute before the Tribunal but we find the High Court factually not correct. The employment of the appellants was terminated sometime in 1985-86 or 1986-87. Pursuant to the judgment in Daily Rated Casual Employees Labourer v. Union of India, AIR 1987 SC 2342, the Department was formulating a scheme to accommodate casual labourers and the appellants were justified in awaiting the outcome thereof. On 16-1-1990 they were refused to be accommodated in the scheme. On 28-12-1990 they initiated the proceedings under the Industrial Disputes Act followed by conciliation proceedings and then the dispute was referred to the Industrial Tribunal-cum-Labour Court. We do not think that the appellants deserve to be non suited on the ground of delay."