

**IN THE HIGH COURT OF HIMACHAL PRADESH  
SHIMLA**

Civil Writ Petition No.449 of 2001.

Date of decision:11.01.2006.

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<b>State of H.P. &amp; Others.</b>	<b>.....Petitioners.</b>
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**Versus**

<b>Dola Ram and Another.</b>	<b>.....Respondents.</b>
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*Coram*

**The Hon'ble Mr.Justice K C Sood,J.**

*Whether approved for reporting ?<sup>1</sup>*

**For the Petitioners:        Mr.Ashok Chaudhary, Additional  
Advocate General.**

**For the Respondents:        None.**

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**K C SOOD,J. (Oral)**

This petition is directed against the award made by the Labour Court, Shimla in Reference No.198 of 1998 on 16<sup>th</sup> March, 2001.

It appears, Dola Ram, the respondent herein, ("workman" for short) was engaged in the year 1987 as beldar by the Irrigation and Public Health Division of the petitioners at Thunag. He left the job in July, 1989. He had admittedly completed 240 days preceding the year he left the job. It was only after ten years that he raised the dispute in 1997. Conciliation proceedings failed on 21<sup>st</sup> August, 1997 and Reference was made in the year 1998.

The petitioners disputed the claim on the grounds that the "workman" himself abandoned the job and he was not

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<sup>1</sup> *Whether the reporters of Local Papers may be allowed to see the judgement?*

disengaged. The petitioners also maintain that the work for which the workman was engaged was completed and did not exist after 1990.

It is admitted position that no notice was served on the workman.

It is true that the law does not prescribe any time limit for the appropriate Government to exercise its power under Section 10 of the Industrial Disputes Act. Such power indeed can be exercised at any time, but at the same time as pointed out by the Apex Court in ***Nedungadi Bank Ltd. vs. K.P.Madhavankutty and Others (2000)2 SCC 455***, such power has to be exercised reasonably and in a rational manner. There is no rational basis to exercise powers after a lapse of more than ten years when the dispute become stale. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale can not be the subject matter of reference under Section 10 of the Act. In view of the inordinate delay in raising of the dispute, it is apparent that there was no dispute pending at the time when the reference in question was made.

In view of this position of law, the petition is allowed. The impugned award made by the Labour Court is set aside. The reference shall stand dismissed.

No costs.

January 11, 2006  
(aks)

( K C Sood )  
Judge.