

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Date of Decision:-26.08.2015**

**1. CWP No.10510 of 2001**

Divisional Forest Officer, Mahendragarh

.....Petitioner

Versus

Harmesh Kumar and another

.....Respondents

**2. CWP No.18973 of 2013**

Divisional Forest Officer (TR), Mahendragarh

.....Petitioner

Versus

Harmesh Kumar and another

.....Respondents

**CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.  
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN.**

**Present:- Ms. Tanisha Peshawaria, DAG Haryana.**

Mr. Ashwani Bakshi, Advocate  
for respondent No.1.

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**SATISH KUMAR MITTAL, J.(Oral)**

This order shall dispose of CWP Nos.10510 of 2001 as well as CWP No.18973 of 2013. Both these writ petitions have been filed by the Officials of the State of Haryana.

CWP No.10510 of 2001 has been filed against the award dated 21.7.2000 passed by the Industrial Tribunal-cum-Labour Court, Gurgaon, whereby the respondent-workman was ordered to be held entitled to be reinstated in service with continuity and full back wages from the date of demand notice dated 28.3.1997.

CWP No.18973 of 2013 has been filed against the order dated 25.2.2009 passed by the Industrial Tribunal-cum-Labour Court-II, Gurgaon, whereby the application filed by the respondent-workman under Section 33-C (2) of the Industrial Disputes Act, 1947, for granting back wages in terms of the Labour Court award dated 21.7.2000, was allowed.

We have heard learned counsel for the parties.

As far as the termination of services of the respondent-workman by the Management, the Labour Court recorded the following finding:

"7. The AR for the petitioner submitted that the petitioner was given employment on 1.1.1994 as Mali-cum-Chowkidar on monthly wages of Rs.1800/-. He further contended that services of the petitioner were illegally terminated on 28.3.1997. The management without any cogent evidence submitted that the petitioner was given employment upon a Project which was for the welfare of the public and was for a fixed period and as such the case is not covered under the I.D. Act. Harmesh Kumar WW-1 proved the documents placed on record. Sher Singh MW-1 stated that the petitioner had worked with the Forest Department and stopped working since April 1992. He has denied in his cross examination that the petitioner ever worked w.e.f. 1.1.1994 but he admitted the documents referred to by Harmesh Kumar in his statement as WW-1. She Singh MW-1 cannot be said to be speaking the truth. When the evidence of the petitioner oral as well as documentary is perused minutely, it is found that the petitioner was working with the management from 1.1.1994 to

27.3.1997 and that his services were illegally terminated on 28.3.1997 without making any payment as required under the law. Simply alleging that the provisions of Section 25-F of the I.D. Act are not applicable is not enough. The petitioner has completed more than 240 days. The documents on file do not support the plea of the management. During arguments, it was stated by the AR for the management that the petitioner had already been taken back on duty w.e.f. 4.4.2000.

8. Taking the above held discussion into consideration, I conclude to hold that termination of services of the petitioner was not justified. He is thus entitled to be re-instated with continuity of service and full back wages. Issue No.1 is, therefore, answered in favour of the petitioner and against the management."

In the aforesaid order, the Labour Court has recorded categorical finding that not only the respondent-workman has completed more than 240 days of services before his termination but his termination was made without complying with the mandate of requirement of Section 25-F of the Act. It was also noticed that during the pendency of the references the Management has already taken back the respondent-workman on duty w.e.f. 4.4.2000.

During the course of arguments learned counsel for the appellant could not point out any illegality or perversity in the afore finding of facts.

In view of the above, we do not find any force in the writ petition filed by the management challenging the award of the Labour Court and the same is hereby dismissed.

As far as the second petition (CWP No.18973 of 2013) is concerned where the application under Section 33-C(2) of the Act, the workman has been awarded back wages in terms of the order passed by the Labour Court which has been upheld, therefore, there is no illegality in the said order.

Thus the aforesaid petition is also dismissed.

**( SATISH KUMAR MITTAL )**  
**JUDGE**

**26.08.2015**  
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**(MAHAVIR S. CHAUHAN)**  
**JUDGE**