

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 6586 of 1996 (O&M)

Date of decision : 15.07.2015

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Vinod Electroplating Works

.....Petitioner

vs.

The Presiding Officer, Labour Court
Jalandhar and another

.....Respondents

Coram: Hon'ble Mr. Justice P.B. Bajanthri

Present: Sh. B.S. Patwalia, Advocate
for the petitioner

None for the respondents

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1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

P.B. Bajanthri, J.

In this writ petition, the petitioner-company is aggrieved by the award dated 13.9.1995 passed in Reference No. 487 of 1988, by the Labour Court, Jalandhar.

Brief facts of the case are as follows.

Respondent No. 2 was appointed as a Gate-keeper 9.2.1987.

He left the service on 24.11.1987. He settled his dues with the

petitioner. Subsequently, on 11.9.1989, the 2nd respondent raised an industrial dispute. Thus the Labour Court while accepting the reference, set aside the termination of the 2nd respondent and ordered for his reinstatement into service with full back wages on 13.9.1995.

The petitioner counsel submits that the 2nd respondent suppressed the fact of settlement between the management on 18.12.1987 and raised an industrial dispute and further it was contended that the petitioner has not rendered 240 days service. Therefore, it was contended that the Labour Court committed an error in ordering reinstatement with full back wages, while ignoring the aforesaid factual aspects.

The petitioner counsel contended that the Labour Court did not appreciate the fact that there was a settlement between the 2nd respondent and petitioner on 18.12.1987 and further contended that the 2nd respondent was re-employed. Extract of the contention of the petitioner before the Labour Court is reproduced hereunder:-

“3. That Shri Khem Singh acknowledged, vide the said settlement, having given up right of re-employment and instatement and that he had no claim of any nature against the respondent. He also executed a separate receipt in token of his having received the amount of Rs.439.14 in full and final settlement.

4. That more than a month of his left the job Sh. Khem Singh made a false complaint to the Labour Inspector, Jalandhar making absolutely false

allegations. The management refuted the contents of his complaint vide their letter dated 2.2.1988 sent under registered cover with a copy to the Labour Inspector. The factual position was also stated in the letter alongwith relevant documents. It was further stated in the letter that although Shri Khem Singh had left the job of his own, the management was still prepared to re-employ him if he so desire. Despite having received the letter Sh. Khem Singh neither replied nor approached for re-employment. Instead he served a false and frivolous demand notice after about four months of his having left the job.”

The petitioner's contention has not been countered by the 2nd respondent before the Labour Court. Therefore, the Labour Court should have accepted the plea of the petitioner. Thus the petitioner is aggrieved by the order of the Labour Court dated 13.9.1995. Hence this petition.

The 2nd respondent has not chosen to file statement of objection and remained absent.

The short question for consideration is whether the Labour Court erred in directing the petitioner to reinstate the 2nd respondent with full back wages or not.

Having regard to the fact that the 2nd respondent settled his dues with the petitioner on 18.12.1987 by acknowledging a receipt, the 2nd respondent should not have raised the dispute. The Labour

Court failed to appreciate settlement issue between the petitioner and the 2nd respondent. The petitioner contended that 2nd respondent has not worked for 240 days. In support of this contention, he had relied on attendance register. At the same time, the 2nd respondent merely stated that he has worked for more than 13 months. However, in support of the said contention he has not produced any material. Despite these factual aspects, the Labour Court held that the 2nd respondent has rendered more than 240 days service, i.e. from 4.11.1986 to 18.12.1987 on presumption and assumption. The Labour Court considered the said issue as issue No. (ii), however, failed to appreciate the material facts produced by the petitioner that the 2nd respondent has worked for 144 days only. Therefore, the award of the Labour Court dated 13.9.1995 is arbitrary and contrary to facts. Hence award dated 13.9.1995 is set aside.

Accordingly, the writ petition is allowed.

No order as to costs.

July 15th, 2015
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(P.B. Bajanthri)
Judge