

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

Civil Writ Petition No.12264 of of 2011

Date of decision: 3.9.2015

Lakha Singh

... Petitioner

Versus

Presiding Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.TPS Tung, Advocate,
for the petitioner.

Mr.Harkesh Manuja, Addl., AG., Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

No evidence was led by the workman in this case to prove the relationship of master and servant between the Forest Department and him. The only thing on which the petitioner depends were 4 cheques issued by the Forest Department in his name which was credited to his account. The dispute raised by the workman was that his services were dispensed with arbitrarily and without following the mandatory procedure laid down in Section 25F of the Industrial Disputes Act, 1947. The period of service claimed by him is from April, 1999 to June, 2000 as a *Mali*. The claim was made against Athwal Nursery in District Gurdaspur. The record produced by the management for the relevant period of the Athwal Nursery did not

substantiate the claim of the petitioner that he had indeed worked in the Nursery. No contra evidence was produced by the worker on whom the burden was to prove the relationship of employment and that he had completed 240 days of continuous service within the meaning of Section 25B of the Act preceding the 12 calendar months from the date when the alleged termination took place.

The Presiding Officer, Labour Court, Gurdaspur vide award dated 6.3.2009 has found no case to interfere since the jurisdictional fact of relationship of master and servant was not established on the record and therefore the petitioner had no industrial rights even if we are to assume that he performs some work to entitle him to receive the four cheques from the management in different amounts i.e. ₹ 1311, ₹1575/-, ₹1260/- and ₹ 1515 respectively. This *prima facie* shows that the arrangement between the management and the petitioner was one of contract for service and not contract of service. Ordinarily, salary cheques are consistent in their amounts on a month to month basis. Therefore, there is no fundamental flaw in the reasoning nor is the award vitiated by any error apparent on the face of the record.

For the foregoing reasons, I find no merit in this petition which is ordered to stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

September 3, 2015
Paritosh Kumar