

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

Civil Writ Petition No.101 of 2015

Date of decision: 7.1.2015

Principal Conservator of Forests and another

..... Petitioners

Versus

Mubin and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Sharad Kumar Yadav, DAG, Haryana
for the petitioners.

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

RAJIV NARAIN RAINA, J.

Here is a case where the record of the Forest Department itself spoke in favour of the workman confirming that he had worked in the Department in 1995, 1997 and 2000 to August, 2003. In the face of this admission, non-production of summoned record by the Forest Department prior to 1985 and till 1996 was adversely inferred against the management. Thus, the Labour Court has drawn an adverse inference under Section 114 (g) of the Evidence Act and a presumption has been drawn that the record was deliberately withheld to damage the case of the workman. The Labour Court has applied the law laid down by this Court in **Indian Overseas**

Bank v. Presiding Officer, CGIT, Chandigarh and another; 2012 (4)

SCT 119, **Damyanti v. Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and another**; 2012 (4) SCT 506 and **Maya Devi v. Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and others**; 2012 (3) SCT 399 and has allowed the reference by accepting that the workman had continuously worked with the respondent management from 2nd June, 1987 to 29th March, 2006 and his services were terminated on 30th March, 2006 without holding a domestic enquiry and without complying with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 [for short 'the Act']. The reinstatement has been ordered with continuity of service along with back wages upto 50 percent calculated on the basis of the last drawn wages. The demand notice is dated 25th December, 2006 which would be the date of raising the industrial dispute. The dispute come into existence on refusal of reinstatement, which dispute under Section 2A of the Act was referred by the appropriate Government to the Labour Court through Reference No.170 of 2005 which has been decided on 22nd August, 2013 by the impugned award.

This petition has been filed belatedly on 12th December, 2014 against the impugned award dated 22nd August, 2013, i.e., after one year and 4 months. The story of workman regarding illegal termination has been disbelieved by the court *a quo* in the face of the resignation letter tendered and accepted. It is also not open in the writ jurisdiction to interfere with the findings of fact recorded by the Labour Court and, therefore, I find no ground to interfere with the award of the Labour Court or its supporting reasons which are maintained as just and meet.

As a result, the petition is dismissed in limine as not warranting

CWP No.101 of 2015

: 3 :

admission as no legal issue worth consideration is involved. The monetary benefits under the award be calculated and handed over to the workman within two months, failing which, it will carry interest @ 9 percent per annum simple till payment.

(RAJIV NARAIN RAINA)
JUDGE

January 7, 2015
Paritosh Kumar