

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

CWP No.12060 of 2015
Date of decision: 01.07.2015

Subhash Kumar

... Petitioner

Versus

Presiding Officer, Industrial Tribunal Bathinda and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Peeush Gagneja, Advocate for the petitioner.

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?

ARUN PALLI J. (Oral)

Vide an award dated 01.08.2012 (Annexure P6), rendered by Industrial Tribunal, Bathinda, claim set out by the petitioner was declined and the reference was answered accordingly. That is how, the petitioner is before this court. Parties to the lis, hereinafter, would be referred to by their original positions before the Industrial Tribunal.

Workman raised an industrial dispute alleging illegal termination of his services on 07.07.2000. It was maintained that he was employed as Peon on 22.05.1995, and his services were brought to an end without affording him any notice, holding of any domestic inquiry or payment of retrenchment compensation. So much so, persons junior to the petitioner were retained in service.

In defence, it was maintained that the workman had in fact abandoned service at his own accord and abstained from duty. Thus, there was no question of any termination. Consequently, no notice, charge-sheet or any compensation was required to be paid. Further, the workman had not completed 240 days of service in a preceding calendar year.

Industrial Tribunal, on an analysis of the matter in issue and the evidence on record, concluded that the onus to prove that the workman had indeed served the management for a period of 240 days in 12 calendar months preceding the date of termination was upon the workman himself. Nothing was brought on record, least any cogent evidence, to substantiate such a claim. So much so, an application moved by the workman seeking direction to the management to produce the relevant records to substantiate his claim was not pressed and the workman closed his evidence. Therefore, even no adverse inference could be drawn against the management either. That being so, there cannot be any dispute that the provisions of Section 25F of the Industrial Disputes Act were also not attracted. Likewise, albeit it was maintained that persons junior to the workman i.e. Banwari Lal and Ramesh Kumar, were retained in service, but again nothing was brought on record to prove such an assertion. Therefore, there was no breach of the provisions of Section 25G of the Industrial Disputes Act. In fact, the stand set out in the

written statement filed by the management remained uncontroverted, as neither any replication nor any counter-affidavit was filed. Not just that, the petition in hand has been filed after almost three years i.e. on 29.05.2015 of the passing of the award dated 01.08.2012. Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the Industrial Tribunal is either erroneous in law or contrary to the position on record. That being so, no interference with the award rendered by the Industrial Tribunal, under Article 227 of the Constitution of India, is warranted.

Dismissed in limine.

July 1, 2015
Rajan

(Arun Palli)
Judge