

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.17251 of 2013
Date of Decision: March 27, 2015

Ramesh Chander

...Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak &
another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Sandeep Singal, Advocate,
for the petitioner.

Mr.Keshav Gupta, AAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the award dated 9.4.2013 (Annexure P-6), whereby the reference of the petitioner has been dismissed by holding that no right of the workman has been infringed and he has been held not entitled to any relief.

Learned counsel appearing for the petitioner contends that the petitioner was appointed as a Water Pump Operator from 7.8.1991 till 30.12.2001 when his services were illegally terminated and thereafter he served a demand notice dated 20.12.2004. Copy of the demand notice, claim statement, reply and replication are annexed with the writ petition as

Annexures P-1 to P-4.

Learned counsel for the petitioner further submits that there has been violation of the provisions of Section 25-F of the Industrial Disputes Act (for short “the Act”) and, therefore, the Labour Court ought to have ordered the reinstatement and reasonable amount of back wages, as the Department did not hold any enquiry.

Learned counsel appearing on behalf of respondent No.2-Management contends that the stand taken before the Labour Court was that the workman had not worked with the respondent-Management, at any point of time, even for a single day and the workman while filing the rejoinder admitted that he physically worked with the management w.e.f. 7.8.1991 to 30.4.1992. Para No.1 of the reply to the preliminary objection in the replication (Annexure P-4) is reproduced herein below:-

“That the para No.1 of the prel.objections of the written statement is wrong and hence denied. The management did not produce the complete service record of the workman intentionally. The workman physically served with the management from 7.8.1991 to 30.4.1992.”

I have heard the learned counsel for the parties and appraised the paper book and the impugned award.

During the course of hearing, this Court called upon the learned counsel for the petitioner to supply the photocopy of the documents (Exs.W-1 to W-13), which were brought on record by the management through WW-2 Raj Bala.

From the perusal of the documents (Ex.W-1 to Ex.W-13), it is evident the name of the petitioner as Ramesh Chander was not figuring

except one Ramesh, whose signatures do not tally with the signatures of the petitioner as is evident from the Vakalatnama and the affidavit filed in this Court.

Labour Court, on the basis of the oral and documentary evidence brought on record, has come to a categorical conclusion that the workman had not been able to discharge the onus of proving that he worked as a workman with respondent No.2, much less, worked for 240 days in the previous calendar year. The workman has not led any evidence giving rise to an occasion for the management to rebut the same.

In the absence of any material on record, it cannot be inferred that the rights of the workman have been infringed, much less, there could be a violation of the provisions of Section 25-F of the Act.

There is no merit in the contention of the learned counsel for the petitioner as workman has failed to prove that he, at any point of time, worked except for the period as admitted by him in the replication. For that period, the petitioner cannot be permitted to raise a plea of violation of provisions of Section 25-F of the Act.

In view of what has been observed, the award of the Labour Court dated 9.4.2013 (Annexure P-6) is upheld and the writ petition dismissed.

March 27, 2015
ramesh

(AMIT RAWAL)
JUDGE