

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

**CWP No.17983 of 2013
Date of decision:2.12.2015**

Chief Medical Officer, General Hospital, Bhiwani

... Petitioner

Versus

Sh. Attar Singh & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Vibha Dhiman, AAG, Haryana,
for the petitioner.

None for the respondents.

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

RAJIV NARAIN RAINA, J.(Oral)

1. The Labour Court has held that the work performed by the workman was seasonal in nature. He was engaged to spray insecticide in the deputed area to contain the spread of malaria. Labour Court has also returned a finding that persons who are junior to respondent No.1 were retained in service and the rule of 'last come first go' was not followed and therefore, there was violation of Section 25-G of the Industrial Disputes Act, 1947 (for brevity 'the ID Act'). Invocation of Section 25-G of the ID Act does not depend on fulfillment of conditions of Section 25-B or Section 25-F of the ID Act and it is not necessary that a worker must have put in 240 days of service in the preceding 12 calendar months from the date of termination.

2. The State has approached this Court assailing the award

dated September 17, 2012 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar, principally on the ground that the respondent was a casual labourer working on seasonal basis and the employment was not perennial in nature and therefore, he could not have been awarded reinstatement to service. However, back wages have been denied to the workman. The worker has not assailed the award or claimed back wages and at least no litigation has been referred to by the State in the present petition. The labour court award does not mean the worker will be reinstated to a full time post. All that the award does is it puts him back to the original position as a seasonal worker on the principle that persons junior to him were retained to perform the same work which violated his rights under Section 25-G of the ID Act. The pure findings of fact recorded by the Labour Court that the persons junior to the petitioner were retained when the services of the petitioner were terminated is not open to be disturbed in the supervisory jurisdiction provided under Article 226 of the Constitution of India.

3. Heard. No merit. Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

2.12.2015
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