

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

CWP No.24016 of 2011  
Date of decision: 14.07.2015

Madan Pathak

... Petitioner

Versus

Presiding Officer and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Deepak Sonak, Advocate, for the petitioner.  
Mr. SS Saini, Advocate for respondent No.2.

\*\*\*

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 award, dated 06.09.2010, rendered by the Labour Court, Faridkot, being assailed in this petition, claim of the workman was rejected and the reference was answered accordingly. Parties to the lis hereinafter would be referred to by their original positions.

In short, the case set out by the workman before the labour court was that he was initially appointed as a Hand Moulding Machine Operator on 02.02.1986 by Proprietor of M/s Ahuja Industries. In the year 1989, he was posted as Injection Moulding Operator. M/s Ahuja Industries in the year 1991 changed its name to M/s Ahuja Plastic Udyog but the workman continued in the employment. However, neither any letter of appointment nor wage slip, ESI card etc. was issued to the workman. Since, certain amount was retained from his

wages by the management on the plea that the same was required to be deducted for some fund, he protested and as a result his services were brought to an end without complying with the provisions of Section 25F of the Industrial Disputes Act, 1947.

In defence, it was pleaded, inter alia, by the management that the services of the workman were never terminated. In fact, he had been absenting from duty w.e.f. 17.02.2004 without prior permission or sanctioned leave. A letter, dated 20.02.2004, was sent to the workman and he was asked to resume duty, but he did not choose to. The similar stand was set out by the management before the Labour-cum-Conciliation Officer. Name of the workman continued to appear on the rolls of the management and thus, the dispute raised was misconceived. The plea that the workman had joined service on 02.02.1986 was denied and it was maintained that in fact, he joined the management in March 1995.

On an analysis of the matter in issue and the evidence on record, the labour court concluded that the workman failed to substantiate that he indeed entered service on 02.02.1986 and rather the material on record proved that he was afforded employment w.e.f. 01.03.1995. As regards the alleged termination of the services of the workman, it was observed that though the workman claimed that his services

were terminated on 16.02.2004, but the evidence on record proved that he unauthorizedly remained absent from duty w.e.f. 17.02.2004. A copy of the letter dated 20.02.2004 (Ex.M2) revealed that the management had asked the workman to resume duty, as he was unauthorizedly absent since 17.02.2004. The postal receipts i.e. Ex.M5 & Ex.M6, in this regard were proved on record. In any case, workman himself admitted in his cross-examination that he had received the letter dated 20.02.2004. So much so, he conceded in his cross-examination that post 16.02.2004 i.e. the date of alleged termination, he had never gone to the management to resume duty. Though, subsequently, he sought to resile from the said statement and maintained that he did go to join duty but he was not assigned any work. However, no evidence, least cogent, was brought on record to substantiate such a plea. No complaint of any kind in this context was submitted to the concerned authorities either. A statement made by the workman before the Labour-cum-Conciliation Officer was relied upon to suggest that he indeed expressed his willingness to join duty but as he admitted in his cross-examination that post 16.02.2004 he had never gone to join duty, the said statement was paled into insignificance. Still further, a letter dated 29.07.2004 (Ex.M9) was written by the Labour Commissioner vide which the workman was advised to resume duty within a period of two weeks. And again, nothing

was brought on record to prove that even pursuant to this letter, he ever made an endeavour to resume duty. Likewise, written comments submitted by the management (Ex.M7) before the Labour Officer amplify their stand. That being so, it was concluded that the workman had indeed abandoned the duty and there being no termination his claim was rejected.

I have heard learned counsel for the parties and perused the paper book.

Learned counsel for the workman simply seeks to reiterate the submissions that were advanced before the labour court and rejected after a due and comprehensive consideration. No other argument was advanced.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant petition is wholly devoid of merit and is thus liable to be dismissed for the reasons that are being recorded hereinafter. Concededly, the workman never reported for duty since 17.02.2004. The plea that his services were illegally terminated on 16.02.2004, remained unproved on record. Rather to the contrary the enormous evidence on record i.e. Ex.M2, Ex.M7 and Ex.M9, as has been referred to in the preceding paragraphs, irresistibly show that despite having been repeatedly asked the workman failed to resume duty. An analysis of the material and the evidence on record irresistibly shows that the workman had no intent, interest or a will to

serve the management any further. Thus, the labour court rightly concluded that he severed the relationship by his own volition and thus abandoned the duty.

In the wake of the position, as sketched out above, there hardly exists any ground, least plausible in law, to interfere with the award being assailed. The petition being devoid of merit is accordingly dismissed.

July 14, 2015  
Rajan

**( Arun Palli )**  
**Judge**