

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

CWP No.24060 of 2011
Date of decision: 02.03.2015

Raj Mani

... Petitioner

Versus

The Industrial Tribunal Amritsar and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. BD Sharma, 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 award dated 12.08.2011, rendered by Presiding Officer, Industrial Tribunal, Amritsar, claim made by the petitioner (workman) was declined and the reference was answered against him. That is how, workman is before this court. Parties to the lis, hereinafter, would be referred to by their original positions before the Industrial Tribunal.

Petitioner-workman raised an industrial dispute vide demand notice dated 14.07.1999. It was averred that he had been working as Electrician with the respondent-management for the last 10 years at a monthly salary of ₹ 3,500/-. Further, petitioner had worked continuously till 06.05.1999, when on 07.05.1999 his services were brought to an end, without any show cause notice, issuance of charge-

sheet or holding any inquiry. Further, termination of the service of the workman was in apparent violation of the provisions of Sections 25F, 25G and 25H of the Industrial Disputes Act, 1947.

In defence, it was pleaded, inter alia, that there never existed any relationship of a master and servant between the parties. It was denied that the workman ever worked with the management as an Electrician and drew a salary of ₹ 3,500/- per month. Therefore, there could hardly be any occasion to terminate the services of the workman.

On a consideration of the matter in issue and the evidence on record, it was found by the labour court, that the workman, to prove his claim, had examined Bakhshish Singh (WW1), who even failed to identify the workman i.e. Raj Mani, in court. He also testified that there was no post of Electrician with the management-Club. Likewise, Chaudhary Kundan Lal (WW2), in the absence of requisite records, failed to substantiate that workman Raj Mani was employed by the management since 1979. He was also unable to state as to on which date, he occupied the position of the Secretary of the Club. Document Mark B i.e. a certificate purportedly issued by the management under the signature of the then Honorary Secretary Vijay Batra, was also of no consequence as Vijay Batra (WW5), denied his signature upon the said document. Likewise, document Mark A was the photocopy of the identity

card allegedly issued by the management, but the original thereof was never produced. No explanation was rendered as to why it was withheld. In fact, that was alleged to be a forged document by the management. On the contrary, the attendance register, w.e.f. March, 1998 to April, 1999 (Ex.M2), produced by Narinder Singh (MW1), did not reflect that the workman Raj Mani was engaged in the services of the management. That being so, the oral testimony of the workman was not sufficient to discharge the onus. Accordingly, it was concluded that there was not even an iota of evidence on record to prove that workman Raj Mani was ever employed as Electrician with the respondent-management. Thus, he failed to adduce any cogent evidence to prove the relationship of employer and an employee between the parties. Once that was so, there could never be any occasion for termination of his services. As a result, the claim of the workman was rejected.

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

Learned counsel for the petitioner simply seeks to reiterate the submissions that were advanced before the labour court and were 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 devoid of merit and is thus, liable to be dismissed for the reasons that are being recorded hereinafter. Needless to assert, for petitioner to succeed, he was required to prove that he indeed was employed as an Electrician with the respondent-management. The witnesses examined by none other than the petitioner himself i.e. Bakshish Singh (WW1), failed to identify the workman in court. He also testified that as per the list of employees, employed in the management, there was no post of an electrician. To prove his claim, workman relied upon certificate mark B i.e. certificate issued by the management, that was purported to have been issued under signatures of its Secretary i.e. Vijay Batra. However, Vijay Batra (WW5), denied his signatures upon the said document. Likewise, mark A i.e. a photocopy of the identity card, that was purported to have been issued by the management, was also hardly of any consequence as signatures of the issuing authority thereon were not visible. Secondly, why the original thereof was withheld by the workman, remained unexplained on record. The attendance register, w.e.f. March, 1998 to April, 1999 (Ex.M2), produced by Narinder Singh (MW1), did not reflect that the workman was ever employed with the management. Though, he claimed to have served the management for a period of 10 years, but no letter of appointment, attendance register, payment of salary register, identity card or any other cogent evidence was

brought on record. Workman, could always prove his claim by requisitioning the requisite records from the custody and possession of the management, but he apparently failed to make any such prayer. That being so, the only and inevitable conclusion one could arrive at was that the petitioner failed to substantiate his claim. Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the labour court was either contrary to the position on record or suffered from any material illegality.

In the wake of the position, as set 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.

March 2, 2015
Rajan

(Arun Palli)
Judge