

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP NO.22255 of 2012

Date of decision: 4.9.2015

Parbhagia Van Adhikari Social Forestry Division, Sonapat

...Petitioner

Versus

Smt.Savitri & Another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

Mr.Ramesh Goyat, Advocate
For respondent no.1

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

RAJIV NARAIN RAINA, J. (Oral)

This petition is directed against the award dated 20th January, 2012 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat whereby respondent no.1-work lady has been ordered to be reinstated to service with continuity of service and 50% back wages. Aggrieved against the impugned award, the State of Haryana has approached this Court by filing this petition.

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

Having regard to the findings recorded by the Labour Court in paragraph 9 of the impugned award, no interference is called for in this case on the contention that 240 days of service were not completed by the work lady in the calendar year preceding the date of termination. The Management did not produce the Muster Rolls through its witness which led the work lady to summon an official witness Ramesh Kumar, Clerk who appeared as WW3. The Labour Court directed Ramesh Kumar to bring the summoned record pertaining to the work lady. The Labour Court gave several opportunities and directed him again and again to bring the complete summoned record, but he failed to do so. After leading the Labour Court upto the garden path, he ultimately deposed that the summoned record was destroyed by the Department and he would be unable to bring the same in future. He admitted that the attendance of the work lady was marked on the Muster Roll and he had not brought the Muster Roll. In these circumstances, the assertion of the work lady that she had worked from 15th July, 1980 to 30th June, 1999 as a daily wage worker has to be accepted by drawing an adverse inference on account of non-production of evidence by the Management to rebut the assertion of the work lady. Having passed the hurdle of Section 25-B of the Industrial Disputes Act, 1947 (for short the “Act”), the Labour Court examined the case from the angle of compliance of Section 25-F of the Act, but found its compliance in the breach. With these two jurisdictional facts established on the record on the strength of the evidence adduced by the parties, the Labour Court has awarded reinstatement into service with continuity of service with 50% back wages.

The total period of service in this case comes to 19 years which precludes

this Court to interfere with the award of the Labour Court or to disturb the just dispensation of justice by an unwanted intervention in the impugned award. I would, therefore, find no jurisdictional error in the decision of the Labour Court and nor is it vitiated by an error of law apparent on the face of record. The findings of the Labour Court are neither perverse nor irrational. Findings of fact recorded by the Labour Court are not open to be disturbed in writ jurisdiction under Articles 226/227 of the Constitution of India.

For the foregoing reasons, I find no ground meriting interference with the award of the Labour Court. This writ petition is accordingly dismissed.

(RAJIV NARAIN RAINA)

JUDGE

4.9.2015

MFK