

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.2659 of 2011 (O&M)

Date of Decision: May 25, 2015

Executive Engineer, PWD Public Health Division No.2, Hisar

...Petitioner

Versus

Smt.Sharda Devi & 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.Hitesh Pandit, Addl.A.G.Haryana,
for the petitioner.

Mr.Tara Chand Dhanwal, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

With the consent of learned counsel for the parties, the main case is taken on board for disposal.

The challenge in the present writ petition is to the award dated 21.9.2010 (Annexure P-1), whereby the reference raised by respondent No.1, vis-a-vis alleged termination has been answered in favour of the workman and she has been held entitled to reinstatement along with 50% back wages.

Mr.Hitesh Pandit, learned Additional Advocate General, Haryana appearing on behalf of the State submits that the award of the

Labour Court is illegal, perverse and erroneous inasmuch as that no doubt respondent No.1 had continued to work as part-time Sweeper from 1992 to 2006, but owing to the appointment of Smt.Krishna Devi as regular Sweeper, services of respondent No.1 were dispensed with. Copy of the order dated 21.1.2006 appointing Krishna Devi as Sweeper against the vacant post has been annexed with the petition as Annexure P-2.

Mr.Tara Chand Dhanwal, learned counsel appearing for respondent No.1-workman submits that before the Labour Court, order (Annexure P-2) had not been placed on record, which led the Labour Court to arrive at a conclusion that the respondents had failed to lead any evidence in this regard. Even otherwise, the workman had worked for a period of fourteen years as a part-time Sweeper, but her services have been terminated without adherence to the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short “the Act”) and, therefore, the award of the Labour Court is fair, legal and justified and is liable to be upheld.

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

It is the conceded position that order (Annexure P-2) is not part and parcel of the record of the Labour Court and the Labour Court made to arrive at a conclusion in the absence of such record. Be that as it may, the fact remains that respondent No.1-workman had worked as a part-time Sweeper for a period of fourteen years and the manner and mode in which she had been thrown out from the service is wholly in violation of the provisions of Section 25-F of the Act.

Though the Management was required to regularise the services

of the petitioner, but the fact remains that there is non-compliance of the provisions of Section 25-F of the Act as no retrenchment compensation or notice has been served upon the workman. The award of the Labour Court is based on the appreciation of the evidence and the documents brought on record. The workman had pleaded in the claim petition that she had not been gainfully employed during the period she remained out of service and, therefore, rightly awarded 50% back wages.

No fault can be found with the findings rendered by the Labour Court and accordingly the writ petition is dismissed.

May 25, 2015
ramesh

(AMIT RAWAL)
JUDGE