
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.17661 of 2014

Date of decision: 10.02.2015

Kartar Singh

...Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and
another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Ms. Abha Rathore, Advocate for the petitioner.

G.S.SANDHAWALIA, J.

Challenge in the present Civil Writ Petition is to the award dated 9.12.2013(Annexure P/10) whereby the Industrial Tribunal-cum-Labour Court, Panipat has declined the reference against the petitioner-workman on the ground that he was not able to prove that his services were terminated by the respondent-management and rather he stopped attending his duties and remained absent. Accordingly, he was not held entitled to benefit and protection under Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the "Act") as available to a retrenched or a terminated workman.

Counsel for the petitioner has submitted that no enquiry was conducted and therefore, even though there was absence, the respondent-management was bound to comply with the principle of natural justice and to give opportunity to the workman.

A perusal of the paper-book would go on to show that case of the workman was that he had worked from 1.4.2007 to 19.3.2008 as Conductor of the respondent no.2-school and he was drawing a salary of ₹

3600/- per month and his services were terminated on 20.3.2008. He had served demand notice dated 1.4.2008 (Annexure P/1) on the respondent-school alleging violation of mandatory provisions of the Act including the fact that one Rajesh who was junior to him had been appointed. The defence of the management on the matter being referred to the Labour Court was that the workman had been asked to report for duty in terms of letter dated 10.5.2008 which was sent by registered post but he had continued to remain absent. It was not a case of termination and it was a case of remaining absent from duty. It was denied that any mandatory provision of the Act was violated nor any junior to the workman had been appointed.

In his cross-examination, the workman admitted that he received the letter sent by the management Ex.M1 but denied the fact that he did not report for duty. He further admitted that last working day was 18.3.2008. He also admitted that he had given reply to Ex.M1 vide Ex. W1 which is appended as Annexure P/2. The management also examined the Manager to prove the letter dated 10.5.2008 sent to the workman and placed on record the postal receipt. He also admitted in his cross-examination dated 24.9.2013 that the management was ready to take him back on duty, however, they were not willing to pay back wages. The attendance register was also placed on record to show that his presence was marked till 18.3.2008 and for 19.3.2008 he had taken leave and thereafter he had been marked absent. MW-2 another conductor of the school was also examined to depose that he had gone to call the workman since he was belonging to the same village and he was not joining on the ground that wages were not being increased.

After perusing the record of the record and the award this

Court is of the opinion that no fault can be found in the award of the labour Court. The case of the management right from day one was that the workman had not reported for duty after 18.3.2008 and he had raised a dispute immediately thereafter on 1.4.2008. The management had written to him for joining duty vide registered letter dated 10.5.2008 but he did not join his duties. From the statement of management witness, it is obvious that the management was willing to take the workman back but he himself had not opted to join duty and the management has also examined a witness to prove this fact that the workman had remained absent. The question of conducting enquiry immediately thereafter did not arise since the matter was thereafter referred to the Labour Court. Before the Labour Court also the management witness had admitted that they were ready to take back the workman on duty but without back wages. The said offer obviously was not acceptable to the workman.

In similar circumstances, this Court has already upheld the award of even date passed in **CWP No.14063 of 2014-Ram Chander Vs. Preisdind Officer, Industrial Tribunal-cum-Labour Court, Panipat and another** decided 22.7.2014 in favour of the same management against the workman who was a driver of the bus. Even in the index of the present writ petition, counsel for the petitioner has placed reliance upon the said order and adjournments had been sought on the ground that review application had been filed in the said petition. The review application has also been dismissed today in the said case. Thus, this Court is of the opinion that there is no scope for interference with the impugned order passed by the Labour Court, Panipat as this Court is not sitting as a Court of appeal. There is no error apparent on the face of the record of the award and finding of fact has been recorded that the workman had absented from duty

himself willfully. Thus, in such circumstances, the argument raised that enquiry was not conducted is without any justification.

Accordingly, the present writ petition is dismissed in limine.

10.02.2015
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(G.S.SANDHAWALIA)
JUDGE