

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

CWP No.17871 of 2014
Date of decision: 20.05.2015

Ram Lal

... Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-III,
Faridabad and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rishav Jain, 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 an award being assailed, dated 13.02.2013 (Annexure P1), rendered by Labour Court-III, Faridabad, the claim of the petitioner-workman for reinstatement with all consequential benefits has been declined. Parties to the lis, hereinafter would be referred to by their original positions before the Labour Court.

In short, the case set out by the workman was that he joined the management on 03.02.1996 as a Helper, for a sum of ₹ 1800/- p.m. as wages. No appointment letter was issued to the workman, as the management never issued any letter of appointment to any of the workmen. No ESI slip or

wage slip was issued either. Management always paid the wages to its workmen after 20th of every month. And on 24.04.2005, when the workman demanded his wages as also the wages for overtime, his services were brought to an end. No notice, opportunity of hearing or charge-sheet was served upon the workman. As there was a breach of the provisions of Section 25N of the Industrial Disputes Act, 1947 [for short, 'the Act'], petitioner claimed reinstatement with continuity of service and full back wages.

In defence, the relationship of an employer and employee between the parties was denied by the management. Resultantly, the workman never served the management.

Labour court, on a consideration of the matter in issue and the evidence on record, found that the workman failed to produce on record any document to show that he was ever in the employment of the management. In fact, he conceded in his cross-examination that he had no document to establish that he was ever employed, as no appointment letter, ESI or PF slips were issued to him. The letters (Ex.W-A & Ex.W-B) were hardly of any consequence as these were merely sent in the name of the workman at the address of the respondent-management by some Phool Kali. Thus, could hardly be construed as proof of employment of the workman with the management. Likewise, testimony of the co-workers could hardly advance the claim of the workman, in the

absence of any documentary proof. On the contrary, Harnam Singh (MW1) proved the documents Ex.M1 & Ex.M2 i.e. the attendance registers of February & March, 1996. And the same do not reflect the name of the workman. Likewise, even the document Ex.M3 & Ex.M4 i.e. wages register for the month of February & March 1996, do not show the name of the workman. So is the position as regards, Ex.W5 i.e. Form 6 of Employee's State Insurance Corporation for the period 01.10.1995 to 31.03.1996, documents i.e. Ex.M6 Form 6 for the period 01.04.1996 to 30.09.1996, Ex.M7 Form 6 from 06.12.1998 to 31.03.1999. That being so, it was concluded that the onus to prove that the workman was indeed in employment of the management for a period of 240 days in the twelve calendar months immediately preceding the date of termination was upon the workman himself, which he apparently failed to discharge. Accordingly, the reference was answered against the workman.

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

Learned counsel for the petitioner could not point out as to how the conclusions that have been arrived at by the Labour court were 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 in limine.

May 20, 2015
Rajan

(Arun Palli)
Judge