

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

CWP No.17702 of 2015

Date of Decision: 26.08.2015

PSEB(now Punjab State Power Corporation Ltd.) & ors

... Petitioners

Versus

Kulwant Singh & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Ritam Aggarwal, Advocate,
for the petitioners.

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

RAJIV NARAIN RAINA, J.(Oral)

The Presiding Officer, Industrial Tribunal, Ludhiana, has allowed the reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 and awarded reinstatement for breach of mandatory provisions in Section 25-F of the Act since neither notice nor one month wages in lieu of notice nor retrenchment compensation was paid to the workman at the time of retrenchment. The court *a quo* has determined that the workman had put in 240 days of continuous service in the preceding 12 calendar months from the date of termination. There was employer employee relationship between management and workman which lasted for 387 days.

Ms. Ritam Aggarwal, learned counsel appearing for the petitioners argues that there is no employer-employee relationship between the Board and the respondent-baildar/helper. The plea is, however, not substantiated by any evidence produced on the file. She

refers to the statement of Nand Lal (MW-2) produced by the management who had deposed that the service book of the workman is not prepared by the Department of Civil Works Division at Ludhiana. When the statement was made the witness also deposed that he had not brought the muster rolls pertaining to the year April 1997 to June 1998, which was the relevant period. Ms. Aggarwal submits that the same have been misread by the Labour Court to come to the conclusion that relationship of employer and employee existed between the parties. It is also the contention of Ms. Aggarwal that at best the workman was engaged through a contractor and not directly by the Board . If that be so, the contractor has not been produced before the Labour Court to justify the assertion on which jurisdiction of the Labour Court might have rested. Therefore, I have no hesitation in dismissing this petition as interference in the findings of fact recorded by the Labour Court would not be justified.

In any case, in view of law laid down by the Supreme Court in **Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana)**, (2010) 5 Supreme Court Cases 497, **Harjinder Singh vs. Punjab State Warehousing Corporation**, (2010) 3 SCC 192; **Devinder Singh vs. Municipal Council, Sanaur**, (2011) 6 SCC 584 and **Jasmer Singh vs. State of Haryana and another**, (2015) 4 SCC 458, I do not find it a fit case for interference. The award is affirmed. The petition stands dismissed.

26.08.2015**monika**

MONIKA VERMA
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I attest to the accuracy and
authenticity of this document
Chandigarh

**(RAJIV NARAIN RAINA)
JUDGE**