

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 19557 of 2014 (O&M)
Date of decision : July 2, 2015

Divisional Forest Officer and another

..... Petitioners

Versus

Satyawan and another

..... Respondents

CWP No. 23925 of 2014 (O&M)

Divisional Forest Officer and another

..... Petitioners

Versus

Raja Ram and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. Hitesh Pandit, Additional Advocate
General, Haryana for the petitioners.**

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?

Amit Rawal, J (oral).

This order of mine shall dispose of both the
aforementioned writ petitions as a common question of fact and law
is involved in both the cases.

In both the cases the workman had sought
reference on the basis of evidence brought on record. The Labour
Court ordered for reinstatement along with continuity of service with
50% back wages.

Learned State counsel submits that the award of the Labour Court is erroneous and perverse and submits that the workmen in both the cases were never employed with the Management but the Labour Court has not addressed this issue, thus the award of the Labour Court is not sustainable in the eyes of law.

In essence, the workmen have not been able to produce any record that they were employees with the Management.

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

It is a candid case of the workmen that they had moved an application for summoning the witness from the office of the Management for producing the record with regard to salary and attendance sheet. However, despite having moved such an application the Management did not produce the record. An affidavit to this effect has been filed by Vijay Laxmi Divisional Forest Officer, Kaithal stating therein that Subhash Chand, Forester was directed to produce the record available with the department i.e seniority list circulated by the DFO which unequivocally shows that the workmen were employees of the Management and therefore the denial of relationship of employer and employee fell flat on the face of the Management.

Since the Management failed to discharge the onus, much less produce the record, despite having been summoned, the Labour Court drew the presumption under Section 114 of the Evidence Act by holding that the workmen had rendered a service of

240 days in a relevant year and therefore the Management without resorting to the provisions of Section 25-F of the Industrial Disputes Act terminated the services of the workmen. Rightly so the workmen had been held entitled to reinstatement along with continuity of service as well as 50% back wages.

Learned counsel for the State submits that Raja Ram-workman in CWP No. 23925 of 2014 had abandoned the job on his own but the fact remains that the Management did not issue any show cause, much less held any enquiry in this regard, therefore such a plea cannot be accepted and hence rejected.

There is no illegality and procedural laps in the award of the Labour Court. The same is upheld. Accordingly, both the writ petitions are dismissed.

(AMIT RAWAL)
JUDGE

July 2, 2015
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