

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 26199 of 2012(O&M)

Date of decision : June 29, 2015

Public Health (RWS) and others

..... Petitioner

Versus

Tejinder Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. V. Ramswaroop, Additional
Advocate General, Punjab for the petitioner.

Mr. P. K. Mutneja, Advocate
for respondent No.1-workman.

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).

The challenge in the present writ petition is to the award dated 17.8.2012 (Annexure P-4) whereby reference placed by the respondent No.1-workman has been answered in his favour and he has been held entitled to reinstatement with continuity in service and 50% backwages.

Mr. V. Ramswaroop, Additional Advocate General, Punjab submits that the respondent-workman had not completed 240 days in a relevant year, therefore the claim petition ought to have been dismissed by invoking the provisions of Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'). In essence, he has completed 219 days, therefore the impugned award

suffers from illegality and perversity and is liable to be set aside.

Learned counsel for respondent No.1-workman submits that during the pendency of proceedings an application for summoning the record of the services of the workman was moved before the Labour Court but despite that Management did not produce the record and plea of the Management that the record had been illegally held by the workman, has been found to be belied on the basis of the report of the police and therefore the award of the Labour Court is fair, legal and justified.

He further submits that even the Management has appointed another Pump Operator namely Bhupinder Singh therefore there is a clear cut violation of Section 25-H of the Act.

He further submits that even there is a categorical averment that during the period of termination the workman was out of job and was not gainfully employed.

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

There is force in the contention made on behalf of the workman and inasmuch as the workman had moved an application dated 3.1.2003 to produce record regarding termination order dated 13.11.1996 but the Management-petitioner failed to produce the same, rather, it has come on record that as per police report dated 23.11.1996 Ex. W-3, the record had been handed over by the Management to the workman, therefore the stand of the Management, that the workman had stolen the record and illegally retained the record, did not find merit/weight in the mind of the

Labour Court. Witness of the Management has categorically admitted that in place of the workman a new appointment had been made on 14.11.1996. The Labour Court while taking notice of that, found, that the Management has resorted to unfair labour practice. In fact there is violation of provisions of Section 25-H of Industrial Disputes Act. Accordingly, the award of the Labour Court is fair, legal and justified in entitling the workman to reinstatement with continuity in service and 50% backwages.

There is no merit in the writ petition much less any illegality and perversity in the order passed by the Labour Court.

The award of the Labour Court is upheld. The writ petition is dismissed.

June 29, 2015
archana

(AMIT RAWAL)
JUDGE

