

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 20572 of 2014 (O&M)

Date of Decision: 09.01.2015.

Sukhchain Singh

--Petitioner

Versus

Presiding Officer & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Karan Bhardwaj, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

The instant writ petition is directed against the award dated 2.12.2013, passed by the Industrial Tribunal, Bathinda, whereby the reference has been answered against the petitioner-workman and he has not been held entitled to any relief.

Learned counsel for the petitioner has been heard at length and the pleadings on record have been perused.

Perusal of the demand notice dated 10.7.2007 at Annexure P-1 as also the statement of claim at Annexure P-2 would show that the petitioner was claiming to have been employed as a Pump Operator w.e.f. 1.1.1996 and his services having been terminated w.e.f. 29.7.1996 and in derogation of the provisions of the Industrial Disputes Act. Workman had further asserted that certain juniors had been retained.

On the other hand stand of the management/employer was that services of the workman had never been terminated and rather he had left the job of his own accord w.e.f. 29.7.1996.

In the impugned award a finding has been recorded based on muster rolls adduced on record in the shape of Ex. M-1 to Ex. M-6 that the

petitioner-workman had worked for 87 days for the period January, 1996 to March, 1996 and for 74 days w.e.f. 16.5.1996 to July, 1996. Such period of service was rendered in different water supply schemes. As such, the finding of fact recorded by the Labour Court is that the workman had not completed a period of 240 days in the preceding 12 calendar months taken from the date of alleged termination i.e. 29.7.1996.

The Labour Court has rightly taken a view that the initial burden of proof was upon the workman to show that he had completed 240 days of service in the previous 12 months to be entitled to protection under Section 25-F of the Industrial Disputes Act. During the course of arguments, it stands conceded by learned counsel for the petitioner that no record had been produced on behalf of the workman to prove such fact and neither was any application filed on behalf of the workman for production of record during the relevant period.

It would also be apposite to notice that in the deposition made by the workman himself before the Labour Court and during cross-examination (Annexure P-8) he had himself admitted that he had left the job on 29.7.1996.

This Court is of the considered view that the findings of fact with regard to the workman having abandoned the job of his own accord as also of having not completed 240 days in the preceding 12 calendar months are based on due appreciation of evidence adduced on record. Such findings recorded by the Labour Court would not call for any interference by this Court in exercise of its supervisory writ jurisdiction.

There is yet another aspect of the matter. The Labour Court has non-suited the workman even on the ground of delay. The alleged date of

termination is stated to be 29.7.1996 and the demand notice is dated 10.7.2007. There is gross delay of approximately 11 years in having raised the industrial dispute.

In the totality of circumstances, no ground for interference is made out. Writ petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

January 09, 2015.
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