

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

Civil Writ Petition No.2960 of 2012

Date of decision: 24.2.2015

Punjab State Warehousing Corporation and others

... Petitioners

Versus

Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.B.R.Bansal, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J. (Oral)

Reference to the Labour Court was for adjudicating whether the termination of the services of the workman were justified or not. If they were not justified, to what relief, he would be entitled to. The petitioner was engaged as a Chowkidar by Punjab State Warehousing Corporation Limited, Chandigarh on 3rd June, 1995. His services were terminated on 1st May, 1997 which form the corpus of the dispute before the Labour Court. The Labour Court returned findings of foundational facts against the workman inasmuch as the petitioner was found not to have served for 240 days in a calendar year preceding the date of termination. This finding was reached on evidence adduced by both the parties both oral and documentary before the Labour Court with workman present and contesting it.

At the stage of final hearing before the Labour Court, the workman did not press his claim for denial of service and, therefore, reinstatement but requested on the other hand that he may be paid monetary compensation and the reference be disposed of accordingly. It is a postulate of a reference under Section 2-A of the Industrial Disputes Act, 1947 that the Labour Court will not travel beyond reference and has to answer the issue framed and sent to it for adjudication. It is only when the termination itself is faulted, can a question of compensation arise. The workman cannot disclaim reinstatement and take monetary benefit in lieu of reinstatement by surrender of his rights to reinstatement. If he surrenders his rights to reinstatement, he loses his industrial rights for re-entry into service. This is for the reason that workmen are paid for labour and not to withhold it, so that they participate in the manufacture of goods or services. Besides, if the view of the Labour Court is accepted, which it ought to be, then the petitioner had not served for 240 days continuously in terms of Section 25-B of the Industrial Disputes Act and, therefore, the Labour Court loses jurisdiction to pass any order or award.

Consequently, the award is set aside.

The petition is allowed.

(RAJIV NARAIN RAINA)
JUDGE

February 24, 2015
Paritosh Kumar