

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

CWP No.2056 of 2015 (O&M)

Date of decision: 03.03.2015

M/s Sood Industries

... Petitioner

Vs.

Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Amarjit Singh, Advocate
for the petitioner.

AMIT RAWAL J. (ORAL)

The present writ petition has been filed for quashing of the Award dated 18.02.2014, passed by the Labour Court in pursuance to the demand raised by the workman, vide which reference of the respondent No.2 has been decided against the petitioner by reinstating respondent No.2, with continuity of service and 25% of back wages.

The case set up by the respondent (herein after referred to as 'workman') was that he was appointed as Power Pressman with the petitioner-Management on 4.5.1991 and his services were terminated on 17.7.2006 without complying with the provisions of Section 2-A of the Industrial Disputes Act, 1947 (herein after referred as 'Act').

Mr. Amarjit Singh, learned counsel for the petitioner, in support of his case, submits that services of workman had not been terminated but he used to remain absent from his duties and thus, abandoned his job. He further submits that workman in cross-examination admitted that for his livelihood, he used to earn ₹ 4000-5000 per month and therefore, the Labour Court has committed illegality and perversity in not referring to the aforementioned admission of the workman and thus, erroneously granted the back-wages to the extent of 25%. He further submits that the Management had filed a return on 3.11.2006 which has not been considered by the Labour Court and rather has been rejected on the ground that the return was filed after serving of the demand notice, thus, urged before this Court that Management is willing to take back workman back into service provided 25% of the back-wages as Awarded by the Labour Court is set aside.

I have heard learned counsel for the petitioner and am of the view that the writ petition is liable to be dismissed for the following reasons:-

During the pendency of the proceedings before the Labour Court, it has come into evidence that record pertaining to the cash book, diary, attendance register, despatch register, inspection book was not produced by the Management and the reasoning given was that the said record have been lost and in this regard a DDR No.36 (Ex.P13) had been lodged on 20.07.2006. This Court cannot

lose site of the fact that services of the workman were terminated on 17.7.2006 and a DDR has been lodged on 20.7.2006.

In support of the aforesaid loss, the act of Management is not bonafide but intentionally denied the relief to the workman. In case, the plea of the Management is to be accepted on the face of it that the workman had abandoned the job, nothing prevented them by sending a notice and hold enquiry or serve charge sheet and thereafter, could have terminated services after complying with the provisions as envisaged under Section 25(F) of the Act. No such exercise or effort has been made on behalf of the Management. As per the Award, it has come on record that workman had completed 240 days in every calendar year and the plea of Management, that he did not work on the establishment, has not been proved by leading direct and cogent evidence, but rather plea taken was that record with regard to attendance register has been lost, this fact led the Labour Court to draw adverse inference.

No fault can be found with the findings of the Labour Court as the findings are based on appreciation of evidence brought on record, much less, no illegality and perversity in granting back wages to the extent of 25%.

In view of what has been observed above, writ petition is dismissed accordingly.

(AMIT RAWAL)
JUDGE

March 03, 2015
savita