

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 439 of 2012
Date of decision : May 21, 2015

Pritam Singh

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:-

Mr. Inderjit Sharma, Advocate and
Ms. Mansi Bansal, Advocate
for the petitioner.

Mr. V. Ramswaroop, Additional Advocate
General, Punjab.

Mr. Ajaib Singh, Advocate
for respondent Nos. 2 and 3.

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 petition is to the order dated 26.9.2011 whereby the alleged reference has been rejected on the ground that the petitioner has not completed 240 days.

Learned counsel for the petitioner has drawn attention of this Court to Annexure P-4/W-18 to contend that from June, 1996 to April, 1997 the petitioner has completed 240 days, in essence he has completed 290 days, therefore the Labour Court has committed illegality and perversity in rejecting the reference. Since the petitioner has completed 240 days, therefore there was no

compliance of provisions of Section 25-F and accordingly the termination was required to be held bad.

Learned counsel for the State submits that the award of the Labour Court is fair, legal and justified. The Labour Court on the basis of documentary evidence has categorically found that the workman had not completed 240 days in a relevant year, therefore the reference had rightly been declined/rejected.

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

The Hon'ble Supreme Court in **Mohan Lal Vs. Management of M/s Bharat Electronics Ltd. 1981 3 SCC 225** had an occasion to interpret the provisions of Section 25-B (2) of the Act and while interpreting the provisions held that the aforementioned section describes a situation where the workman is not in employment for a period of 12 calendar months but has rendered the services for a period of 240 days commencing and counting back from the relevant date i.e. date of retrenchment and in such circumstances he would be deemed to be in continuous service for a period of one year for the purpose of Section 25-B.

In the present case the aforementioned document P-4/W-18 has not been taken into consideration while deciding the reference. Thus for all intents and purposes the workman had completed a period of 240 days as per provisions of Section 25-B of the Act.

The award of the Labour Court suffers from illegality, much less perversity since the workman has rendered a

service of two years, I do not deem it appropriate to order reinstatement and award back wages but I deem it appropriate to grant compensation of ₹1,50,000/- to the workman as per the principles culled out in the Full Bench judgment rendered by this Court in **Municipal Council, Dina Nagar Vs. Presiding Officer, Labour Court 2014 (4) SCT 514.**

Accordingly the award of the Labour Court is set aside. The Management is directed to pay a compensation of ₹1,50,000/- within a period of two months from the date of receipt of certified copy of the order, failing which it shall entail interest of @ 12% per annum.

The writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

May 21, 2015
archana