

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

Civil Writ Petition No.22748 of 2014

Date of Decision: 30.03.2015

Tejbir

.....Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Sandeep Singal, Advocate for the petitioner.

JASWANT SINGH, J. (Oral)

The Workman/petitioner has challenged the Award dated 25.08.2014 (**Annexure P-9**), passed by respondent No.1/Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak, whereby the reference regarding termination of his services has been decided against the workman and in favour of the Management/respondent No.2. Further prayer is for issuing a writ of mandamus directing respondent No.2 to reinstate the petitioner with all consequential benefits.

The case of the petitioner as set out in the claim statement (**P-1**) is that he was initially appointed as “Dairyman” on 18.11.2005 on daily wage basis by Milk Plant, Gohana Road, Rohtak/respondent No.2 and his services were illegally verbally terminated on 16.10.2006 without any cause or assigning any reason or by passing a written order. He had completed more than 240 days in a calendar year and while illegally terminating his services, no retrenchment compensation was paid, while retaining the juniors, thus there was violation of

provisions of Sections 25-F and 25-G and 25-H of the Industrial Disputes Act, 1947 (for short “1947 Act”). It was admitted that the petitioner was working under the jurisdiction of M/s Baba Haridass Security Services, Rohtak (respondent No.3 herein), however, the payments of wages were made by the Milk Plant.

The stand of the Milk Plant (respondent No.2 herein) is that the petitioner was a contractual labourer of respondent No.3 (herein), which is a manpower supply agency, owned by the Contractor-Pardeep Kumar. The relationship of the employer-employee was categorically denied and so was the payment of wages by the Milk Plant.

A Demand Notice dated 24.11.2006, after a delay of more than one year, was raised. In view of the dispute, Reference No.078 of 2007 raising the issue “ whether the termination of services of workman Sh. Tejbir Singh is justified and, if not, to what relief he is entitled to ? ” was required to be adjudicated by respondent No.1, which has been decided vide Award (**P-9**) against the workman.

Learned Counsel for the petitioner has argued that photocopies of the Attendance Registers maintained by the Milk Plant were produced as **Mark 'A'** and **Mark 'B'** showing that the petitioner had worked continuously from 18.11.2005 to 16.10.2006 which has been illegally ignored by the learned Tribunal while recording a finding against the petitioner. Therefore, the finding recorded by the learned Tribunal that the petitioner has failed to prove that he has continuously worked for 240 days in a calendar year with the Milk Plant is liable to be set aside.

Having heard learned counsel for the petitioner, this Court finds no

merit in the present writ petition.

The petitioner/workman has failed to produce any document to show that he was receiving salary from the Management/Milk Plant, and the stand of the Management that he was a contractual labourer of M/s Baba Haridass Security Services is fully inconsonance with the case of the petitioner himself, as set out in the claim statement that he was paid salary by the said Security Services. The workman had nowhere in his testimony stated that the said Security Services was of unlicensed Contractor and neither was any suggestion to that effect given to the Management witness-R.P.Chauhan, MW-1. The learned Tribunal has recorded a finding that the workman has failed to prove by adducing any evidence that he was in the employment of the Milk Plant and had worked continuously for 240 days. The argument even as regards the photocopies of attendance registers as **Marks 'A'** and **'B'**, the said witness/MW-1 has denied the same to be of the Milk Plant. Thus viewed, this Court finds no perversity in the findings recorded by the learned Tribunal so as to warrant interference by this Court in its jurisdiction under Article 226 of the Constitution.

Dismissed.

March 30, 2015

Gagan

(JASWANT SINGH)
JUDGE