

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

Date of Decision: 17.08.2015

CWP No.25565 of 2013

Dev Dutt

... Petitioner

Versus

The Presiding Officer, Industrial Tribunal-
cum-Labour Court, Rohtak & anr.

... Respondents

CWP No.25589 of 2013

Sunil Kumar

... Petitioner

Versus

The Presiding Officer, Industrial Tribunal-
cum-Labour Court, Rohtak & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

Mr. S.K. Verma, Advocate,
for respondent No.2.

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

RAJIV NARAIN RAINA, J.(Oral)

This order disposes of two writ petitions bearing Nos.25565
and 25589 of 2013.

Respondent 2-management ran two sugar Mills, one at Sirsa
and other at Meham. There were problems in the Sirsa Mill, which had
led to its closure. There were many regular employees on the rolls of the
Sirsa Mill, who had to be adjusted by transfer to the Mill at Meham.
These transfers caused the displacement of the petitioners working in the
Meham Mill. Since the Mill at Meham could not accommodate more than

the employees facing retrenchment at the Sirsa Mill beyond the working strength, when migrated from Sirsa to the Meham Mill to save them from retrenchment the services of the petitioners necessarily had to be dispensed with on declaration of surplus in the Sirsa Mill with a resulting cascading effect on the Meham Mill and therefore, I do not accept the argument of the learned counsel for the petitioner that in the present case, the principles of Section 25-H of the Industrial Disputes Act, 1947 (for short 'the Act') would apply. The petitioners had provisional right for continuing in Meham over and above rights of the workers, who were migrated from Sirsa to Meham, and thus this Court would not accept the argument of the learned counsel as it cannot be said that the petitioners were senior to any of the regular employees at Sirsa, there being reasonable classification between daily wagers working for short duration in Meham and those had to be declared surplus at Meham with longer service whose status was greater than the petitioning daily wage workers.

The Labour Court has returned a finding of fact in both the impugned awards that the petitioners had not completed 240 days of service within the meaning of Section 25-B of the Act to be entitled to the protection of Section 25-F of the Act and its mandatory compliances. If the period of continuous service is less than 240 days in the preceding 12 calendar months from the date of retrenchment then no industrial rights can vest or accrue to the petitioners and therefore, due process in Section 25-F of the Act was not required to be followed on declaration of closure and surplus. The only exception to the rule of retrenchment before completion of 240 days is the right preserved under Section 25-H of the Act as held by the Supreme Court decision in **Central Bank of India v.**

S. Satyam, (1996) 5 SCC 419 as follows: "Chapter V-A [IDAct, 1947] deals with all retrenchments while Section 25-F is confined only to the .0 mode of retrenchment of workmen in continuous service for not less than one year. Section 25-G prescribes the principle for retrenchment and applies ordinarily the principle of "last come first go" which is not confined only to workmen who have been in continuous service for not less than one year, covered by Section 25-F". The principle was followed the exhaustive judgment in **Harjinder Singh vs Punjab State Warehousing Corporation**, 2010 (3) SCC 192 after noticing numerous past dicta of the Supreme Court. But I would not apply the aforesaid principle of Section 25-H of the Act in this case because there is reasonable classification of the two groups occasioned by reasons beyond the control of the management.

For the reasons recorded above, I would not commend interference with the impugned awards of the Labour Court and consequently both the petitions are ordered to stand dismissed.

17.08.2015
monika

(RAJIV NARAIN RAINA)
JUDGE