

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

I.

Civil Writ Petition No.22701 of 2015

Date of decision: 21.10.2015

Divisional Forest Officer (Territorial), Jhajjar and another

... Petitioners

Versus

Suresh Kumar and another

... Respondents

II.

Civil Writ Petition No.22706 of 2015

Divisional Forest Officer (Territorial), Jhajjar and another

... Petitioners

Versus

Smt.Sumitra and another.

... Respondents

III.

Civil Writ Petition No.22710 of 2015

Divisional Forest Officer (Territorial), Jhajjar and another

... Petitioners

Versus

Sher Singh and another.

... Respondents

IV.

Civil Writ Petition No.22712 of 2015

Divisional Forest Officer (Territorial), Jhajjar

... Petitioner

Versus

Shubh Ram and another.

... Respondents

V.

Civil Writ Petition No.22713 of 2015

Divisional Forest Officer (Territorial), Jhajjar

... Petitioner

Versus

Sombir and another.

... Respondents

VI.

Civil Writ Petition No.22714 of 2015

Divisional Forest Officer (Territorial), Jhajjar

... Petitioner

Versus

Smt.Birmati and another.

... Respondents

VII.

Civil Writ Petition No.22715 of 2015

Divisional Forest Officer (Territorial), Jhajjar

... Petitioner

Versus

Smt.Kanta Devi and another.

... Respondents

VIII.

Civil Writ Petition No.22710 of 2015

Divisional Forest Officer (Territorial), Jhajjar.

... Petitioner

CWP No.22701 of 2015 and connected petitions.

: 3 :

Versus

Smt.Bhanmati @ Bhani and another.

... Respondents

IX.

Civil Writ Petition No.22717 of 2015

Divisional Forest Officer (Territorial), Jhajjar and another.

... Petitioners

Versus

Smt.Gindo Devi and another.

... Respondents

X.

Civil Writ Petition No.22746 of 2015

Divisional Forest Officer (Territorial), Jhajjar.

... Petitioner

Versus

Smt.Sona Devi and another.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Gaurav Goel, Assistant Advocate General, Haryana.
for the petitioners.

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 will dispose of the aforesaid 10 writ petitions. The facts are taken from CWP No.22701 of 2015.

This petition and the connected writ petitions have been filed by the State of Haryana through Divisional Forest Officer (Territorial),

Jhajjar challenging the award passed by the Presiding Officer, Labour Court, Rohtak on 8th August, 2014 and endorsed on 1st September, 2014 awarding reinstatement to the previous post with continuity of service and 50% back wages from the date of demand notice, i.e., 19th October, 2009.

The admitted facts are that the respondent worked as a Daily Wage Labour in the afforestation programme of the Forest Department, Haryana. The period of service is from 1978 till retrenchment on 1st January, 2009.

There is no doubt that the respondent workman had put in 240 days in the 12 months preceding the date of termination on 1st July, 2009. It is also not disputed that there has been violation of Section 25-F of the Industrial Disputes Act, 1947 inasmuch as neither notice nor wages in lieu of notice or retrenchment compensation was paid at the time of retrenchment. The Labour Court has relied on a host of judgments mentioned in the award, to which, no further reference is necessary. The evidence on record was appreciated by the Labour Court and the statements of the witnesses recorded on either side and it is discovered that the management failed to produce the muster rolls which only could have helped the Department to contend before the Labour Court and before this Court that either the petitioner had not worked for the period required under Section 25-B of the Act or not at all and the story that the respondent had left the services of his own accord on 1st January, 2007 as projected in this petition was not accepted and for these reasons, the termination was illegal.

The only serious argument raised by Mr.Gaurav Goel, Assistant Advocate General, Punjab, Haryana is that the workman being a claimant

and in the position of a plaintiff would have to discharge the burden of proof of jurisdictional facts that entitle a workman to relief of reinstatement, back wages and continuity of service. The argument seems attractive in the first glimpse but the mere fact that the workman had asserted in the demand notice/statement of claim the ingredients which would have entitled him to relief then the onus is shifted on the management to produce the muster roll to satisfy the Labour Court that its stand was true, genuine and bonafide based on record. If the management failed to produce the muster roll, the Labour Court committed no error in drawing an adverse inference from the state of affairs against the management and in favour of the workman.

Needless to add, this Court while sitting in the judicial review over the work of the Labour Courts and Industrial Tribunals is not exercising appellate jurisdiction and is only *prima facie* considering that the impugned award does not suffer from any fundamental flaw, perversity, irrationality or an error apparent on the face of the record. The award on its face does not present such features as would ignite the jurisdiction of this Court to interfere in the matter.

For the foregoing reasons, I do not find any merit in this petition or in the connected petitions and would decline to entertain them for any further discussion on the award.

Consequently, all the petitions are dismissed.

(RAJIV NARAIN RAINA)
JUDGE

October 21, 2015
Paritosh Kumar