

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

C.W.P.No.5992 of 2012

Date of Decision: March 17, 2015

Gurdev Singh

...Petitioner

Versus

Presiding Officer, Industrial Tribunal, Bathinda & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.V.K.Shukla, Advocate,
for the petitioner.

Mr.L.S.Virk, Addl.A.G.Punjab,
for the State.

Mr.Mehar Singh, Advocate,
for respondent No.3.

AMIT RAWAL, J. (Oral)

The petitioner has approached this Court for seeking quashing of the award dated 19.9.2011 (Annexure P-1), whereby the reference of the petitioner has been dismissed on the following two grounds:-

- (i) The petitioner had not completed 240 days in previous calendar year after his services alleged to have been terminated;
- (ii) The petitioner did not participate in the investigation/enquiry conducted by Ajmer Singh, Panchayat Officer.

Mr.V.K.Shukla, learned counsel appearing for the petitioner

contended that it was incumbent upon the Management to serve a charge sheet and hold an enquiry and without following the aforementioned procedure, the termination of the petitioner was bad in law and, therefore, there was violation of provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short “the Act”) and, thus, the Labour Court has erroneously and perversely declined the reference.

Mr.L.S.Virk, learned Addl.A.G.Punjab appearing on behalf of the State submitted that the conduct of the petitioner in not cooperating in the preliminary investigation/enquiry is writ large. During the investigation conducted by the Panchayat Officer, the petitioner did not accept the notices, whereby he was called upon to join the investigation/enquiry. Copy of one of the notices alongwith refusal report is annexed with the reply as Annexure R-3. The factum of sending notices prior to Annexure R-3 has also been noticed by the Labour Court and since the petitioner did not cooperate or join the investigation, the Block Development and Panchayat Officer submitted his report dated 30.6.1999 (Annexure R-5), whereby it was, *ex-facie*, found that the petitioner, who was employed as Trees Guard, had cut the trees and after cutting the trees taken away the same.

I have heard the learned counsel for the parties, appraised the paper book, award and as well as the respective contentions of the parties and am of the view that there is no substance, much less, force in the contention of the learned counsel for the petitioner.

The conduct of the petitioner in not joining the preliminary investigation/enquiry cannot be lost sight by this Court. Vide Annexure R-3, the petitioner has himself refused to accept the notice, whereby he was

called upon to join the investigation. There is no rejoinder to the categorical averments in the written statement in this regard. Once the petitioner had refused to join the investigation, the argument that he was not served the charge sheet and as a consequence thereof even the disciplinary proceedings have not been initiated, would be meaningless as adverse inference is liable to be drawn against the petitioner by noticing the aforementioned conduct. Had the petitioner joined the investigation and projected his defence, the argument of Mr.Shukla of serving the charge sheet and holding the enquiry would have some substance. Since the petitioner has failed to accept the notice, much less, give any reply or defence before the Enquiry Officer, i.e., Panchayat Officer, the investigation report (Annexure R-5) has to be believed as it is as it has gone unrebutted. The Labour Court has found that the petitioner has not completed 240 days and, therefore, he cannot be termed as a workman, much less, cannot agitate his claim for non-compliance of the provisions of Section 25-F of the Act.

In view of what has been observed above, the award of the Labour Court dated 19.9.2011 (Annexure P-1) is upheld.

The writ petition is accordingly dismissed.

March 17, 2015
ramesh

(AMIT RAWAL)
JUDGE