

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

CWP No.24145 of 2015

Date of Decision: 18.11.2015

The Divisional Forest Officer, Bhiwani

... Petitioner

Versus

Chandi Ram & anr.

... Respondents

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

Present: Ms. Vibha Dhiman, AAG, Haryana,
for the petitioner.

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

RAJIV NARAIN RAINA, J.

The Forest Department was unable to produce even an iota of evidence to refute the claim of the respondent-workman against the illegal retrenchment effected on April 16, 2010 without complying with the pre-requisites of Section 25-F of the Industrial Disputes Act, 1947 (for short 'the ID Act'). The petitioner had worked from January 5, 1998 to April 15, 2010 on daily wage basis with the petitioner. The service was continuous and uninterrupted and the principle of 240 days was eminently satisfied thereby conferring valuable industrial rights on the respondent 1 to protect his employment for it to be dealt with in accordance with law and the mandatory provisions of Section 25-F of the ID Act. The management's witnesses admitted that there was violation of sub sections (a) & (b) of Section 25F of the Act which are two-fold parts of Section 25-F of the Act the breach of which renders the termination ab initio void. The Labour Court has found the termination illegal and

awarded reinstatement to service with immediate effect with all other consequential benefits but for the back wages as the workman did not work during the intervening period. The impugned award has been passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar on February 5, 2015 endorsed on February 9, 2015. The back wages have been denied on a facile presumption that the workman was not expected to be sitting idle during the intervening period and would be presumed to have been doing something to earn livelihood for his family. The Labour Court has not paid adequate attention to the term 'gainful employment' during the period of enforced idleness to non-suit him on this front. The case under Sections 25-G & 25-H of the ID Act pressed by the workman has been negated and the relief has been centered on violation of Section 25-F of the Act. I find no error of jurisdiction or any fundamental flaw of law or of reasoning as is adopted by the learned Labour Court in arriving at the findings of fact after appreciating the evidence on record holding that the termination was illegal for lack of payment of retrenchment compensation, service of notice and paying wages in lieu of notice, at the time to termination. The dispensation given by the court *a quo* for a long period of 12 years of service spent in the Forest Department at Bhiwani, is sufficient reason for this Court not to interfere in the special jurisdiction provided under Article 226 of the Constitution of India when error is not apparent on the face of record. The supervisory jurisdiction exercised while reviewing the original work of labour tribunals especially in a case where judicial discretion has been exercised in a proper and wholesome manner and within the parameters of awardable relief then

intervention is neither possible nor warranted. Neither do I find any error apparent on the face of the record and by applying the law articulated and expounded by the Supreme Court in **Syed Yakoob v. K. S. Radhakrishnan**, AIR 1964 SC 477 and **Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale**, AIR 1960 SC 137 : (1960) 1 SCR 890. I would find no cogent reason to interfere with the award and would dismiss the writ petition in limine. However, this order will not be read as expressing any opinion on what has been denied to the workman by the Labour Court which will remain open to debate in case a petition is presented by the respondent worker pressing for larger relief than granted by the court *a quo*. In that event, this order will not foreclose the debate in case the occasion arises.

For the reasons recorded above, the petition is dismissed for lack of substance.

(RAJIV NARAIN RAINA)
JUDGE

18.11.2015
monika