

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

**CWP No.24804 of 2015
Date of decision:30.11 2015**

Harbans Lal

... Petitioner

Versus

Presiding Officer, Industrial Tribunal,
and Labour Court, U.T., Chandigarh & anr.

... Respondents

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

Present: Mr. Ramesh Chander Sharma, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J.(Oral)

The petitioner retired from Central Government service and was offered a contractual employment in the year 2002 with Dr. Ambedkar Institute of Hotel Management, Sector 42, Chandigarh, where he served till he left the country and settled abroad only to return. His joining was accepted in 2008 and he served the institute for two years from January 1, 2009 to June 30, 2011 and thereafter, he says he applied for leave to which he was entitled as per rules but he was not communicated with the sanction or rejection order. In these circumstances, he brought an application under Section 33-C(2) of the Industrial Disputes Act, 1947, before the Labour Court at Chandigarh claiming pending amounts regarding non-payment of honorarium @ Rs.7,000/- per month for the leave period. He complained that the aforesaid amount was not paid to him representing the period of 75 days

as earned leave and 50 days of half pay leave. There is no formal letter/contract of service in the second spell of employment from where one can determine whether the rights claimed are pre-existing in nature before the monetary claim can be executed in favour of the petitioner by computing money due. The Labour Court has declined the application on the premise that there is nothing on record to show that the service contract of the applicant was extended after June 30, 2011. So the question of entitlement of the applicant for cash equivalent of earned leave and half pay leave and consequential payment for the said period does not arise. The Presiding Officer, Industrial Tribunal-cum-Labour Court, U.T., Chandigarh, by his order dated November 17, 2014 has rightly rejected the application since the claim is not based on any document and therefore, it is not a pre-existing right. Neither the Labour Court nor this Court in review of the order of the court a quo can create a fresh right in favour of the petitioner to sustain an action from money. No ground is made out warranting interference in the order of the Labour Court and for the reasons recorded by the Labour Court in its order which are sound, the writ petition is dismissed and those findings are affirmed.

(RAJIV NARAIN RAINA)
JUDGE

30.11.2015
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