

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 26970 of 2014 (O&M)

Date of decision : July 2, 2015

Surender Kumar

..... Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court- II
Gurgaon and another**

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. Ashwani Bakshi, Advocate
for the petitioner.**

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?

Amit Rawal, J (oral).

The challenge in the present writ petition is to the award dated 6.6.2013 (Annexure P-5) whereby reference sought by the petitioner-workman has been rejected on the premise that status of the petitioner was not of a workman, but that of a trainee.

Learned counsel for the petitioner submits that since the petitioner was appointed as a trainee and was paid a salary instead of stipend, therefore he was deemed to have status of a workman and the Management ought to have resorted to the provisions of Section 25-F of Industrial Disputes Act, 1947 (hereinafter called as 'the Act') in order to terminate the services of the petitioner-workman and having not done so, there is clear cut

violation of the provisions of Section 25-F. Of the Act, therefore, the Labour Court has committed illegality and perversity in declining the reference.

I have heard learned counsel for the petitioner and perused the paper book.

The terms and conditions of the appointment letter are sacrosanct. The petitioner cannot be permitted to deviate from the same. Salary slip does not foist the status of a workman upon the petitioner in as much as that there is a clear cut condition that during the training period, the workman/trainee was required to undergo training in any department/Section/location, therefore the payment of any allowance would commensurate with the nature of training imparted to the petitioner. Since the petitioner had accepted the terms and conditions of the appointment letter, he cannot be permitted to deviate from the same alleging the status of a workman. The terms and conditions of the appointment letter only indicate that the petitioner was appointed as a trainee for a period of 12 months. The petitioner cannot be branded as status of a workman under Section 2 (s) of the Industrial Disputes Act, 1947.

There is no illegality and perversity in the order passed by the Labour Court. The same is accordingly upheld.

Resultantly, the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

July 2, 2015
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