

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.4259 of 2013

Date of Decision: April 21, 2015

Divisional Forest Officer (Territorial), Forest Division, Fatehabad

...Petitioner

Versus

Pritam & another

...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.Keshav Gupta, AAG, Haryana,
for the petitioner.

Mr.Dharamveer Phour, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Written statement filed on behalf of respondent No.1 today in Court is taken on record. Copy thereof has been supplied to the counsel opposite.

The petitioner-Management has approached this Court by challenging the award dated 19.7.2012 (Annexure P-1), whereby the reference has been decided in favour of the workman, who has been ordered to be reinstated into service with immediate effect. However, the relief qua the back wages has been declined.

Mr.Keshav Gupta, AAG, Haryana, appearing for the State,

inter-alia, contends that the award of the Labour Court is vitiated in law as the workman had abandoned the job and, therefore, there was no need to hold any enquiry and provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short “the Act”) have been complied with.

Mr.Dharamveer Phour, learned counsel appearing for respondent No.1 contends that the award of the Labour Court is fair, legal and justified. It is a clear case of unfair labour practice as the provisions of Section 25-F of the Act have not been complied with.

I have heard the learned counsel for the parties and appraised the paper book.

It is a matter of record that the workman had worked with the Management w.e.f. October, 1986 to 4.7.2007. The workman moved an application during the pendency of the matter before the Labour Court calling upon the Management to produce the record qua muster-roll, register, cash book and bills for the relevant period. The record was produced, but it has come on record that it was not serialised and, therefore, presumption had been drawn against the Management for withholding certain documents.

The Labour Court, after examining the evidence on record, had arrived at a conclusion that the workman remained in continuous employment of the petitioner-Management for the period October, 1986 to 4.7.2007 and he was not served with one month's notice as per the provisions of Section 25-F of the Act. Even the violation of the provisions of Sections 25-G and 25-H were also pressed into service on the premise that the persons, who have been named in the statement of the workman,

were employed after the alleged termination of the petitioner.

The Labour Court, on the basis of the evidence, also found that there was violation of provisions of Sections 25-G and 25-H of the Act. The finding recorded by the Labour Court is based on the appreciation of the oral and documentary evidence. It has also proved on record that there had been violation of provisions of Sections 25-F, 25-G and 25-H and the Labour Court had rightly ordered for reinstatement of the workman.

There is no merit in the present petition warranting interference of this Court under Article 226 of the Constitution of India. The award of the Labour Court is upheld and the writ petition is dismissed.

April 21, 2015
ramesh

(AMIT RAWAL)
JUDGE