

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

CWP No.27171 of 2015

Date of decision: 24.12.2015

Chief Medical Officer

... Petitioner

Versus

Surender Kumar & anr.

... Respondents

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

Present: Mr. Gaurav Goel, AAG, Haryana,
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)

For 9 years of service rendered in the management, respondent No.1 has been awarded reinstatement with continuity of service and 25% of the back wages from the date of demand notice i.e. January 17, 2011. Learned Labour Court, Panipat by its award dated September 15, 2014 has recorded a finding of fact that the petitioner has completed 240 days of service as required under the Industrial Disputes Act, 1947. The Court found that in the previous 12 months from the date of his termination the petitioner had rendered 270 days of service and this finding is not liable to be upset in the supervisory jurisdiction of this Court under Article 226 of the Constitution of India. There is no gainsaying that the Labour Court is the first and last Court on facts and unless they are perverse or based on no evidence or are vitiated by a fundamental error in law, they are not to be overturned only to take a

different view of the evidence. When the Labour Court has appreciated the evidence and exercised its discretion judicially in awarding relief then I find no substance in this petition filed by the Chief Medical Officer, Panipat where respondent No.1 worked as a Sweeper-cum- Chowkidar.

The contention of Mr. Gaurav Goel, learned AAG, Haryana that the workman was never appointed by the management or that he had not completed 240 days of service is not liable to be accepted since both aspects are issues of fact and when determined in a fair and proper manner are not to be reopened in a writ petition unless manifest miscarriage of justice results.

For the forgoing reasons, I find no good enough ground to interfere with the impugned award and the petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

24.12.2015
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