

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 4562 of 2015
Date of decision : July 28, 2015

Manager M/s Filtration and Separations

..... Petitioner

Versus

Ram Devi and another

..... Respondents

CWP No. 11200 of 2015

Ram Devi

..... Petitioner

Versus

Manager M/s Filtration and Separations and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:-

Mr. Vikrant Rana, Advocate
for the petitioner in CWP No. 4562 and
for the respondent in CWP No. 11200
of 2015.

Mr. ADS Bal, Advocate
for the respondent-workman in CWP No.
4562 and for the petitioner in CWP No. 11200
of 2015.

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).

By a common order, I intend to dispose of two writ petitions bearing CWP No. 4562 and 11200 of 2015. For the sake of convenience, the facts are taken from CWP No. 4562 of 2015.

Mr. Vikrant Rana, Advocate puts in appearance on behalf of the Management in CWP No.11200 of 2015.

The Management has challenged the reference decided in favour of the workman whereby the Labour Court though holding that termination of the workman was bad in law instead of ordering reinstatement with continuity of service, much less back wages awarded a compensation of ₹70,000/-. The workman categorically pleaded that she was appointed in the year 2007 i.e. on 3.3.2007 as Operator and continued to work till 12.12.2011, when, her services were illegally terminated without resorting to the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter called as 'the Act'). Even the conciliation proceedings failed as the Management did not offer to take her back in job. The Management, though denied the factum of date of appointment as alleged by the workman but the fact remains that no date of appointment has been given.

Learned counsel for the petitioner-Management submits that as per the averments the date of appointment of the workman had been shown in the year 2010, therefore, she worked only for a period of one year, at the best, the workman is entitled to compensation and not for reinstatement.

Whereas, learned counsel for the workman submits that there is categoric averment in the claim petition that workman was not gainfully employed during the period she remained out of service and the Management did not rebut the same and also did not issue any show cause notice, much less charge sheet or held any

enquiry, therefore, the termination is bad in law.

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

It is conceded position on record that the Management did not issue show cause notice, much less charge sheet or held any enquiry to prove that the workman had remained absent, though letters Ex. D-1 to Ex.D-3 have been sent. It was incumbent upon the Management to hold such an enquiry. Since the Management has failed to categorically plead in the written statement, the date of appointment as 2010, the Labour Court by taking the averments made in the claim petition, that the workman was appointed on 3.3.2007 as Operator, particularly the Management did not resort to the provisions of Section 25-F of the Act held that it was a case of termination and not of abandonment, or absenteeism. The Management was required to comply with the provisions of Section 25-F of the Act.

In view of what has been observed above, the writ petition filed by the workman i.e. CWP No. 11200 of 2015 is allowed whereas that of the Management i.e. CWP No. 4562 of 2015 is dismissed.

The workman shall be entitled to reinstatement with continuity of service and also 50% back wages as the workman must be earning something for eking out her livelihood.

(AMIT RAWAL)
JUDGE

July 28, 2015
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