

CWP No.6138 of 2015 (O&M)

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

**CWP No.6138 of 2015 (O&M)
Date of decision:14.05.2015**

Ram Singh

...Petitioner

Versus

Industrial Tribunal, Bathinda and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Ishrat Pannu, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has alleged that he was employed as work-charge T-mate with the respondent-Board on 16.10.1976. His services were terminated on 21.05.1980. At that time he was drawing the salary of ₹450/- per month. He challenged the order of his termination but the reference was decided against him by the Labour Court on 10.12.2002, which was set aside by this Court in CWP No.13673 of 2003 vide order dated 12.08.2004, granting liberty to the petitioner to seek fresh reference.

The case of the petitioner is that after termination of his services, his juniors were retained and new persons were also employed. The respondent-Board had published an advertisement on 07.11.1997 in the Daily Punjabi Ajit to re-appoint the retrenched employees, but the petitioner was not called. Accordingly, it is alleged that the respondents have violated

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the provisions of Section 25-G and 25-H of the Industrial Disputes Act, 1947.

In reply, it was averred that the petitioner had never worked continuously from 16.10.1976 to 21.05.1980 as he had served with regular breaks and interruptions. As per Section 25-H of the Act, the employer was required to give an opportunity to the retrenched workmen to offer themselves for re-employment. The advertisements in this regard were made in English Tribune dated 16.08.1996 and the Daily Punjabi Ajit on 07.11.1997, but the petitioner did not present himself for re-employment pursuant to the aforesaid advertisements, after getting his service record attested from the concerned office, rather he has failed to mention in his statement of claim whether he had appeared before the Selection Committee of the Board for his re-employment on the prescribed dates.

In order to prove his case, the petitioner appeared himself as WW-1 and tendered his affidavit Ex.WW1/A, whereas the Management had examined Sukhwinder Singh Sidhu as MW-1 who had tendered his affidavit as Ex.MW1/A and also placed on record the documents Ex.M1 to Ex.M4.

The Court had found that there is nothing on record to show that the petitioner ever offered himself for re-employment in pursuance to the advertisements issued by the respondent-Board and has even failed to prove on record that he ever appeared before the Selection Committee for his re-employment, therefore, the respondent-Board was found to have duly complied with the provisions of law by giving advertisements for re-appointment.

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Counsel for the petitioner has argued that the petitioner had applied for job and has referred to Annexure P-3 but has failed to prove that the said document has been tendered in evidence as the petitioner had only appeared himself as WW-1 and tendered his affidavit as Ex.WW-1/A. In the absence of any evidence before the Labour Court, the observations made by it that the petitioner never offered himself for re-employment as per the advertisements Ex.M3 and Ex.M4 issued by the respondent-Board has to be believed and in view thereof, no error is found to have been committed by the Labour Court by answering the reference against the petitioner.

No other point has been raised.

In view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

May 14, 2015
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(Rakesh Kumar Jain)
Judge