

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

CWP No.990 of 2013

Date of decision:28.10 2015

Rajinder Kumar

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Nand Lal Sammi, Advocate,
for the petitioner.

Mr. Inqulab Nagpal, AAG, Punjab.

Mr. JS Bhandohal, Advocate,
for respondents No.3 & 4.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The workman has filed this writ petition challenging the award dated May 23, 2012 passed by the Presiding Officer, Industrial Tribunal, Patiala. The reference has been declined and the relief has been denied. The Labour Court has held in para. 13 as follows:-

“This fact is not in dispute that the workman has worked with the respondent as Peon vide appointment letter Ex.M4. Perusal of the appointment letter Ex.M4 shows that the workman was being paid from contingency of the grant received for the Jawahar Rozgar Yojna from the Government of India. The case of the respondent is that the Government of India has not sent any grant under the above said Yojna. Perusal of Ex.M5 shows that due

to the non-receipt of the grant by the respondent under the Jawahar Rozgar Yojna there was no fund to make the payment of salary to the workman. Furthermore, the perusal of the document Ex.M4 and Ex.M8 shows that the workman was appointed on purely temporary basis and his services were liable to be terminated without notice and any time. In the termination order Ex.M5 it has been clearly mentioned that the grant has not been received by the respondent under the Jawahar Rozgar Yojna from the Government of India and his services have been terminated as per terms and conditions of the appointment letter Ex.M4 and extension order Ex.M8. As such, it is held that the termination of services of the workman is justified and in order. Regarding this, I find further support from 2011 LAB. I.C. (NOC) 12 (P&H) 4, cited above. Resultantly, issue No.2 is answered in favour of the management and against the workman.”

The contesting party is the Zila Parishad, Fatehgarh Sahib. It is argued by Mr. Bhandohal appearing for the Zila Parishad that the petitioner was employed as Peon vide appointment Letter Ex.M4 under the Jawahar Rozgar Yojna, which is funded by the Government of India and this project was executed at the level of local bodies. The wages were paid on D.C. rates as prescribed from time to time but the money came from contingency funds as granted by the Central Government to run the Jawahar Rozgar Yojna at Fatehgarh Sahib. The petitioner served for about one year and 3 months from March 16, 1994 up to June 1, 1995.

Mr. Sammi appearing for the petitioner submits that no

period or time was fixed in the appointment letter Ex.M4 and therefore, the case does not fall in contractual employment or in the exceptions of Section 2(oo) (bb) of the Industrial Disputes Act, 1947.

Even assuming this argument can be sustained the employment is against a scheme paid from the contingency funds and when the plea of the respondent-Zila Parishad stands established by the evidence that the grant had dried up and therefore, it is not possible for the Zila Partishad to pay salary or wages from its own pocket because the petitioner was not an employee of the Zila Parishad and was engaged purely dependent on continuation of work in the Jawahar Rozgar Yojna and flow of funds. In any case, the period of service is far too brief and in the totality of facts and circumstances to award reinstatement, continuity and back wages to the workman would not be proper exercise of supervisory jurisdiction to tinker with the award. I find no manifest error committed by the labour court in declining the reference. Therefore, I find no reason to interfere in the award and for the reasons recorded above, the petition is dismissed as there is no error or fundamental flaw of law and facts in the impugned award nor is there any perversity in reasoning or misreading of the evidence.

28.10.2015
monika

(RAJIV NARAIN RAINA)
JUDGE