

CWP No.8350 of 2015

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

**CWP No.8350 of 2015
Date of decision:08.05.2015**

M/s M.M.Aqua Technologies Ltd. ...Petitioner

Versus

The Presiding Officer and another ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sachin Mittal Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has challenged the award of the Industrial Tribunal-cum-Labour Court, Gurgaon (hereinafter referred to as the “Labour Court”) dated 05.02.2015, holding respondent No.2-workman entitled to be reinstated into service with 40% back wages w.e.f. 15.04.2007 onwards.

The brief facts of the case are that respondent No.2 joined the petitioner-company w.e.f. 16.10.1995 as an Assistant Technician. He worked for 13 years continuously and was granted annual increments, other incentives and conveyance allowances before his services were terminated on 15.04.2007, without following the provisions of Section 25-F of the Industrial Tribunal Act, 1947 (hereinafter referred to as the “Act”). At the time of termination of his services, he was getting the salary of ₹6,450/- per month.

On the other hand, the case of the petitioner is that it had never

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terminated the services of respondent No.2 at any stage, rather from February, 2007, the respondent No.2 was suffering from some stomach disease and, thereafter, he did not report for the duty with a fitness certificate. Hence, the petitioner has alleged that it has never violated any provision of the Act.

The Court framed as many as 3 issues on the pleadings of the parties. The respondent No.2 examined himself and relied upon Ex.PW1/1, Ex.PW1/10, whereas the petitioner examined O.P. Tiwari as RW1 and tendered documents as Ex.M1 and Ex.M2 in support of their case.

The case of the petitioner is that respondent No.2 started absenting himself from the month of February, 2007 without any intimation but it has been found by the Court that no evidence has been led by the petitioner that it had issued any written notice/letter to respondent No.2 directing him to resume the duties which he had allegedly abandoned without intimation. Moreover, the petitioner has relied upon a writing of the respondent No.2 of the month of July, 2007 in which though he has allegedly stated that he is not in a position to resume his duties because of his illness but the service of respondent No.2 has been terminated by the petitioner w.e.f. 15.04.2007.

Learned counsel for the petitioner has though argued in the same manner but he could not explain about termination of service of respondent No.2 w.e.f. 15.04.2007. It was also found by the Court that the respondent No.2 was regular employee and after serving for 13 years continuously, the petitioner could not have terminated his services abruptly,

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without holding any inquiry and also without resorting to the provisions of Section 25-F of the Act.

Although on the date of preliminary hearing on 01.05.2005, this Court was about to dismiss the petition as no merit was found to interfere in the well considered order of the Labour Court but on the persistent request of the counsel for the petitioner, it was adjourned to 07.05.2015 as he wanted to show some documents to prove his case. On the adjourned date also, learned counsel for the petitioner prayed for one more opportunity and the case was adjourned to 08.05.2015. As a matter of fact, he was showing some letters of respondent No.2 prior to 15.04.2007 in which he had alleged that he would not be in a position to work. Those letters were not made part of the record in the evidence led by the petitioner. Learned counsel for the petitioner has fairly conceded to this.

After considering the facts and circumstances in its totality, I am of the considered opinion that there is no error in the order of the Labour Court while answering the reference in favour of respondent No.2-workman, directing his reinstatement into service with 40% back wages only w.e.f. 15.04.2007 i.e. the date on which he was not allowed to join the service.

No other point has been raised.

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

May 08, 2015
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(Rakesh Kumar Jain)
Judge