

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Letters Patent Appeal No.1 of 2015 (O&M)
DATE OF DECISION: 24.02.2015

Jagga Ram

....Appellant

versus

Punjab State Electricity Board and another

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Daman Dhir, Advocate for the appellant
..

S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral) :

This is an appeal against the judgment and order of the learned single Judge dated 12.03.2014 allowing the writ petition by setting aside the order of the Labour Court.

2. The Labour Court granted the appellant reinstatement but without back-wages. The learned Judge has rightly held that the initial burden of proving that a workman has worked for 240 days is on the workman. The learned Judge has gone through the pleadings and found as a matter of fact that the appellant has worked for less than 240 days. He had worked at the most for 232 days from 01.05.1986 to 31.03.1987. We are in agreement with the learned single Judge that it was not for the respondent-employer to ask for an explanation as to why he did not come forward to work after 25.03.1987. If there was an explanation, the appellant

ought to have furnished the same. Secondly, he was a daily-wager and, if he did not report for duty, there was no legal obligation on the respondent-board to seek the explanation.

3. Further, there is no explanation for the delay of about nine years in having sought the reference. The appellant worked up to 31.03.1987, but the reference was made in the year 1997. In the meantime, obviously, alternate arrangements are made. This is a case where the delay has made the respondent-board change its position to its detriment.

4. The appeal is, therefore, dismissed.

As we have dismissed the appeal itself, the delay in filing the appeal stands condoned.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

24.02.2015
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(AUGUSTINE GEORGE MASIH)
JUDGE