

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

LPA No. 1192 of 2015 (O&M)

DATE OF DECISION : 14.08.2015

The District Forest Officer, Kaithal and another

.... APPELLANTS

Versus

Rajbir and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Lokesh Sinhal, Addl. A.G., Haryana,
for the appellants.

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SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 21.04.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 23178 of 2014) filed by the appellants challenging the award of the Industrial Tribunal-cum-Labour Court, Ambala, ordering re-instatement of respondent No.1 – workman with continuity of service and 50% back wages, has been dismissed.

Though there is delay of 74 days in filing the appeal, and the appellants have filed an application (CM No. 2532-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellants on merits and have gone through the impugned order passed by the learned Single Judge as well as the award of the Labour Court.

In this case, the respondent – workman was employed with the appellants – Management in the year 1988 and his services were terminated in the month of January, 2011, without issuing any notice and without complying with the mandatory provision of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act').

Before the Labour Court, the appellants - Management took the stand that the respondent – workman did not work with them at any point of time, therefore, he is not entitled for protection under the Act. In spite of opportunity granted to the appellants – Management, they did not produce any record, and the Labour Court by taking adverse inference of this fact came to the conclusion that the respondent – workman had continuously worked for more than 240 days during the 12 preceding calendar months from the date of termination of his services. Accordingly, the respondent – workman was ordered to be re-instated in service with continuity of service and 50% back wages. This finding of fact has been affirmed by the learned Single Judge while dismissing the writ petition.

Learned counsel for the appellants – Management could not assail the aforesaid finding of fact recorded by the Labour Court. However, he submits that instead of ordering re-instatement of the respondent – workman, suitable compensation should have been awarded to him. This contention also cannot be accepted, because as per the averments made by the respondent – workman in the demand notice, he had worked with the

appellants – Management since the year 1988 and his services were terminated in the year 2011. In spite of opportunity given before the Labour Court, the appellants – Management did not produce the muster rolls/ attendance register etc. for the said period. Therefore, in our opinion, the Labour Court rightly took adverse inference against the appellants – Management and the award of the Labour Court has been upheld by the learned Single Judge. Thus, we do not find any ground to interfere in the impugned order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

August 14, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE