

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

LPA No. 1622 of 2015 (O&M)

DATE OF DECISION : 16.11.2015

Divisional Forest Officer, Railway Road, Karnal

.... APPELLANT

Versus

Naval Singh and another

.... RESPONDENTS

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

HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present : Mr. Sudeep Mahajan, Addl. A.G., Haryana,
for the appellant.

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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 20.07.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 12081 of 2013) filed by the appellant challenging the award dated 15.11.2012 passed by the Industrial Tribunal-cum-Labour Court, Panipat, holding Naval Singh (respondent No.1) entitled to reinstatement with continuity of service and 50% back wages from the date of demand notice, has been dismissed.

There is delay of 68 days in filing the appeal and the appellant has filed application (CM No. 3475-LPA of 2015) for condoning the said delay. Though the delay has not been sufficiently explained in the application, yet we have heard learned counsel for the appellant on merits

and have gone through the award of the Labour Court as well as the impugned order passed by the learned Single Judge.

Undisputedly, in the present case, services of the respondent – workman were terminated on 10.08.2000. As per the stand taken by the respondent – workman, his services were illegally terminated even without complying with the provision of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'). The Labour Court, after appreciating the oral as well as documentary evidence available on record, recorded a finding of fact that the respondent – workman had worked for more than 240 days and his services were illegally terminated in violation of Section 25-F of the Act. It had also come in evidence that the respondent – workman was engaged as daily wager on 18.09.1993 and after about 7 years, his services were terminated on 10.08.2000. After taking into consideration all these facts, the Labour Court recorded the aforesaid finding of fact and ordered reinstatement of the respondent – workman with continuity of service and 50% back wages from the date of demand notice. Before the learned Single Judge, learned counsel for the appellant could not point out any illegality in the award passed by the Labour Court.

In the instant appeal, learned counsel for the appellant tried to convince this court that the services of the respondent – workman were terminated only after completion of the work and his case falls under Section 2 (oo) of the Act. We are surprised to note that this contention has

been raised on behalf of the appellant for the first time before this court. No such plea was taken by the appellant – Management in reply to the demand notice and was not raised either before the Labour Court or before the learned Single Judge. Faced with this situation, learned counsel for the appellant challenged the finding recorded by the Labour Court that the workman had worked for more than 240 days with the appellant – Management in the preceding 12 calendar months from the date of termination of his services. This contention is also devoid of any merit, as before the Labour Court, in spite of the direction issued by the court, service record of the respondent – workman was not produced. Thus, in the facts and circumstances of the case, we are of the opinion that the appellant – Management has filed this appeal without any justified reason, which goes contrary to the litigation policy of the State.

Appeal is, accordingly, dismissed with costs of ₹ 10,000/-, to be deposited by the appellant – Management with the Haryana State Legal Services Authority.

(SATISH KUMAR MITTAL)
JUDGE

November 16, 2015
ndj

(SHEKHER DHAWAN)
JUDGE