

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

LPA-803-2014 (O&M)

Date of decision: 29.1.2015

M/s S.B.Packings Ltd.

....Appellant

Versus

Presiding Officer and another

...Respondents

**CORAM: Hon'ble Mr. Justice S.J.Vazifdar, Acting Chief Justice
Hon'ble Mr. Justice Augustine George Masih**

Present: Mr. K.S.Malik, Advocate for the appellant.

Mr. Kunal Mulwani, Advocate for respondent No.2.

S.J. Vazifdar, Acting Chief Justice (Oral)

1. This appeal is against the order and judgment dated 19.2.2014 of the learned Single Judge dismissing the appellant's writ petition challenging in the order of the Labour Court dated 8.12.2009 granting respondent No.2 reinstatement and 30% back wages.

2. The main contention is that respondent No.2 is not a workman within the meaning of that term under the Industrial Disputes Act.

3. The appellant was admittedly unable to produce any evidence before the Labour Court. The appellant's witnesses infact stated that respondent No.2 was not issued any appointment letter and that he was appointed only pursuant to oral instructions. The appellant was unable to produce any evidence to establish that he discharged a supervisory role or

controlled any other workman.

4. On 18.7.2002 the services of respondent No.2 were terminated and he served a demand notice on 30.7.2002. His demands were not met. A reference was made under Section 10(1) of the Industrial Disputes Act. It is now 13 years since the proceedings commenced. It is only in the petition that the appellant made an application for leading further evidence. The learned Judge has exercised his discretion against allowing the same. There is nothing to indicate as to why the evidence could not be produced for 13 years. In these circumstances, there is no reason to interfere with learned Single Judge's exercise of discretion.

5. The appeal is, therefore, dismissed but with no order as to costs.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

29.01.2015
Meenu

(AUGUSTINE GEORGE MASIH)
JUDGE