

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

LPA No.591 of 2015(O&M)

Date of decision: 10.12.2015

Manager M/s Harsh Auto Cares Pvt. Ltd.Appellant

VERSUS

The Presiding Officer and anotherRespondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. S.N. Yadav, Advocate for the appellant.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench on 07.04.2015 whereby challenge to the award of the Labour Court dated 02.01.2015 remained unsuccessful.

The respondent-workman was appointed on 22.12.2008. As per the workman, he availed leave for 3 days from 15.06.2010 but his service has been terminated without any charge-sheet or inquiry or payment of retrenchment compensation.

The stand of the present appellant/employer before the Labour Court was that the workman himself abandoned the job on 15.06.2010 and he also submitted withdrawal form of Employees Provident Fund. Before the Labour Court, the appellant has not led any evidence except producing withdrawal form of Employees Provident Fund (Ex. R-2). The learned Labour Court on the basis of evidence led by parties returned a finding that the Management has failed to prove that the workman abstained from duty.

It also noticed that there is no written notice by the appellant directing him to resume his duties. Therefore, the appellant has miserably failed to prove that workman has abstained from duty as alleged by it.

In the writ petition against the said order, learned Single Judge has recorded a finding that the appellant has failed to lead any evidence that the workman had himself abandoned the job and that it tried to contact the workman on account of his absence from duty. It is the said finding which is again impugned by the management in the present Letters Patent Appeal.

It is a question of fact whether the workman has abandoned the job or not. The learned Labour Court has found that there is no evidence of abandonment of job by the workman. There is no evidence that Employees Provident Fund withdrawal form was actually accepted by the Employees Provident Fund Organization. Mere signatures on the withdrawal form of Employees Provident Fund is not a proof of the fact that the workman abandoned his job. It is pure finding of fact which is sought to be disputed in the present Letters Patent Appeal.

We do not find any material illegality or irregularity either in the order passed by learned Single Bench or in the award of Labour Court.

Dismissed.

(HEMANT GUPTA)
JUDGE

DECEMBER 10, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE