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

CWP No.13103 of 1992

Date of decision: February 24, 2016

Punjab State Civil Supplies Corporation Limited,
Chandigarh

.....Petitioner

Versus

Raj Kumar (deceased) through his LRs and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.K. Sharma, Advocate
for the petitioner.

Mr. M.K. Dogra, Advocate
for LRs of respondent No.1.

SABINA, J

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of Certiorari challenging the award dated 03.09.1991 (Annexure P-1).

Respondent No.1 had raised an Industrial dispute by serving a demand notice challenging his termination. The dispute raised by respondent No.1 was referred for adjudication to the Labour Court, Bathinda by the appropriate Government.

The case of respondent No.1, in brief, was that he was working with the petitioner as a Chowkidar since 01.05.1985 and his services were terminated w.e.f. 21.07.1988 without complying with the mandatory

provisions of Industrial Disputes Act, 1947 ('Act' for short).

Petitioner in its written statement averred that the services of respondent No.1 had been terminated after payment of one month salary in lieu of notice and compensation in accordance with law.

On the pleadings of the parties, following issues were framed by the Labour Court:-

- "1. Whether the reference is not maintainable as alleged in the preliminary objections of the written statement?
2. Whether the order of termination of services of the workman is justified and in order?
3. Relief."

Parties led their evidence in support of their respective pleas.

The Industrial Tribunal vide its award dated 03.09.1991 allowed the reference sought by respondent No.1. Hence, the present petition by the petitioner-Management.

Learned counsel for the petitioner has submitted that in the present case, compensation and one month salary in lieu of notice period has been disbursed to respondent No.1 at the time of his termination. An amount of ₹1,632/- had been paid to respondent No.1 vide draft bearing No.008112 dated 21.07.1988. Learned counsel has placed on record the statement of workman, MW1 Babu Ram and Exhibit M1 and detail of compensation/salary in

lieu of one month notice to respondent No.1 Exhibit M2.

Learned counsel for respondent No.1, on the other hand, has opposed the petition and has submitted that the services of respondent No.1 had been terminated in violation of provisions of Section 25F of the Act.

In the present case, respondent No.1 while appearing in the witness-box had stated that he had received the draft with regard to compensation and salary in lieu of notice after 20/22 days of termination of his services. He denied the suggestion that he had been handed over draft on 21.07.1988 itself.

MW1 Babu Ram had proved on record notice Exhibit M1 and the detail of compensation/salary in lieu of one month notice to respondent No.1 as Exhibit M2. In his cross-examination, the said witness deposed that receipt was not taken from the Workman at the time of issuance of notice and payment of compensation.

As per Exhibit M2, one month salary in lieu of notice and compensation amount was paid to respondent No.1 and other Chowkidars who had been retrenched w.e.f. 21.07.1988. As per Exhibit M2, draft bearing No.008112 dated 21.07.1988 in the sum of ₹1,632 (₹544 + ₹1,088 = ₹1,632/-) was prepared qua respondent No.1 with regard to salary in lieu of one month notice and compensation.

Thus, in the present case, petitioner had been

successful in establishing that the services of respondent No.1 had been dispensed with in accordance with law. Although, the case of respondent No.1 was that he had been paid the amount of compensation and salary in lieu of one month notice after 20/22 days of his termination by way of draft, but no reliance could be placed on the said statement as the draft had been prepared by the petitioner on 21.07.1988 itself. Moreover, it was not only respondent No.1 whose services were retrenched w.e.f. 21.07.1988. Rather as per Exhibit M2, 44 Chowkidars from different centres were retrenched on account of the fact that they had become surplus.

Thus, in the present case, learned Presiding Officer fell in error while holding that the services of respondent No.1 had not been retrenched in accordance with law. Rather the petitioner had followed due procedure of law and had complied with the mandatory provisions of Section 25F of the Act.

Accordingly, this petition is allowed. Impugned award 03.09.1991 is set aside.

**(SABINA)
JUDGE**

February 24, 2016
mahavir