

101

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

CWP No.2156 of 1993

Date of decision: February 10, 2016

Mr. Satya Pal Gupta

.....Petitioner

Versus

M/s Pavani Civil Contractors Private Limited
and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ashok Gupta, Advocate
for the petitioner.

Mr. R.B.S. Chahal, Advocate
for the respondents.

SABINA, J

Petitioner has filed this petition challenging the award dated 06.11.1992 passed by the Labour Court, whereby, the relief of reinstatement was declined to the petitioner.

Petitioner had raised an Industrial dispute by serving a demand notice challenging his termination. The appropriate Government referred the dispute to the Labour Court, Ambala for adjudication.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

The case of the petitioner, in brief, was that he had joined the respondent-Management as a Time Keeper

on 20.11.1987 and his services had been terminated w.e.f. 16.07.2008 without complying with the mandatory provisions of the Industrial Disputes Act, 1947 ('Act' for short).

The case of the respondent, on the other hand, was that the petitioner had been engaged as a Time Keeper on account of pending work as the Management had got extension for completion of the project. Services of the petitioner had been terminated in accordance with the terms of his appointment/employment.

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

- "1. As per reference/ Onus parties.*
- 2. Whether petitioner is not a workman as defined under I.D. Act? If so its effect?OPM*
- 3. Relief."*

Parties led their evidence in support of their respective pleas.

The Labour Court after considering the evidence led by the parties, gave a finding of fact that the petitioner had rendered 240 days of service preceding the year of his termination. The Labour Court further held that the services of the petitioner had been terminated in violation of the provisions of Section 25-F of the Act. However, while considering the question as to whether the petitioner was entitled for reinstatement in service, the Labour Court came

to the conclusion that it was a fit case where the petitioner was liable to be compensated instead of reinstatement and back-wages. The reasons given by the Labour Court in this regard in Para 13 of its award read as under:-

“Next question to be determined is whether it is a fit case in which relief of reinstatement and full back wages can be awarded to the petitioner. After having again scrutinized the entire material, I have come to this conclusion that grant of relief of reinstatement with full back wages to the petitioner is not possible. Reasons in support of my view based on evidence on record are as under:-

- 1. As evident from the pleadings main reason of retrenchment/termination of petitioner was the reduction/lack of work, as the project at Chandimandir where petitioner was working was nearing completion.*
- 2. Document Ex.M-3 proves that project of construction command hospital at Chandimandir has completed.*
- 3. MW-1 Shri Pritam Singh Khurana, Project Manager, has vouched that small construction work under taken by the management had completed and that the project where petitioner was working was nearing completion and number of employees had to be released. He admitted that advertisement inviting applications for recruitment were published in news-*

paper. That step was taken with this hope that the management would get new construction work. But the management could not lay on its hands at new project because tenders of other parties were accepted. He stated on oath that after termination of this petitioner no fresh appointment of Time Keeper was made. Specifically he stated in his evidence that the management establishment has been wound-up."

The reasons given by the Labour Court while declining the relief of reinstatement to the petitioner are sound reasons. The amount of compensation awarded to the petitioner has since been released to him along with interest as is evident from the order dated 10.02.1994 passed by this Court.

In the facts and circumstances of the present case, no ground for interference by this Court while exercising the jurisdiction under Article 226 of the Constitution of India, is made out.

Dismissed.

(SABINA)
JUDGE

February 10, 2016
mahavir