

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

**CWP No. 6151 of 1994 (O&M)
Date of decision: 08.07.2016**

Karnail Singh

....Petitioner

Versus

Presiding Officer Labour Court, Patiala and another

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Amit Kohar, Advocate for the petitioner.

Mr. Mukesh K.Sharma, Advocate for respondent No.2.

P.B. Bajanthri, J.(Oral)

In the instant writ petition, the petitioner has questioned the award dated 2.8.1993 vide Annexure P-5.

The petitioner is stated to have been appointed as Electrician. He had rendered 11 years of service.

On 31.01.1991 the petitioner remained absent to the duty. Thereafter, he has not reported for duty. On 16.01.1991 2nd respondent is stated to have asked the petitioner to report to duty. Thereafter, number of communications have been made through Regd. Post. On 22.2.1991, the petitioner stated to have issued demand notice (Exhibit M-9) for which the 2nd respondent-Management sent a reply asking the petitioner to report back

to duty within 24 hours vide Annexure M-10. On 12.04.1991, the petitioner sent one more demand notice. The petitioner presumed that his services have been terminated. Dispute was raised under Section 10 (1)(c) of the Industrial Disputes Act, 1947. The same was considered by the Labour Court, Patiala but it was held that petitioner-workman is not entitled to any relief. Accordingly, reference No. 88 of 1992 was disposed of on 2.8.1993.

Feeling aggrieved by the order of the Labour Court, Patiala dated 02.08.1993, the present petition has been presented.

Learned counsel for the petitioner vehemently contended that petitioner has rendered 11 years of service. His services have been terminated on 31.01.1991 without any notice, charge sheet, enquiry or payment of compensation. Therefore, the Labour Court order dated 02.08.1993 is liable to be set aside. Petitioner is entitled for compensation for the reasons that 2nd respondent-Company is not existing (closed).

On the other hand, learned counsel for 2nd respondent submitted that it is undisputed that petitioner rendered 11 years of service. However, it is disputed that petitioner has been terminated from service. It is submitted that the petitioner abandoned his services w.e.f. 31.01.1991. Despite number of reminders, the petitioner failed to report back to duty. On the other hand, he had issued a demand notice for which 2nd respondent asked the petitioner to report back to duty within 24 hours. The same has not been complied nor the petitioner has reported back to duty.

On the contrary, the petitioner had issued 2nd demand notice on 12.04.1991. The Labour Court after apprising the facts and circumstances and conduct of the petitioner, has rightly refused claim of the petitioner and the petitioner has not made out a case so as to interfere with the Labour

Court order. It was further submitted that question of issuance of show cause notice, charge sheet, enquiry or compensation is not permissible having regard to the conduct of the petitioner.

Heard learned counsel for the parties.

Having regard to the conduct of the petitioner that he abandoned service w.e.f. 31.1.1991 and thereafter, despite reply to the demand notice asking him to report to duty within 24 hours by 2nd respondent-Management on 04.03.1991, the petitioner failed to report on duty. Therefore, the petitioner is not entitled for reinstatement and service benefits. It was also noticed that 2nd respondent-Management after issuance of reply to demand notice on 04.03.1991, directed the petitioner to report back to duty within 24 hours. Thereafter, it was the bounden duty of the Management -2nd respondent to initiate disciplinary proceedings. The memo of issuance of show cause notice for remaining absent and abandonment of service nothing is forthcoming. Since the petitioner rendered 11 years of service as electrician, having regard to the misconduct committed by the petitioner i.e. remaining absent or abandoned service, 2nd respondent should have issued show cause notice or initiated disciplinary proceedings.

In view of these facts and circumstances, 2nd respondent is directed to pay compensation of Rs. 1 lac to the petitioner within a period of 3 months from today. To that extent the order of Labour Court is modified.

08.07.2016
pooja saini

(P.B.BAJANTHRI)
JUDGE