

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17251 of 2011

Date of Decision:- 12.7.2016.

D.A.V. Public School, Panipat

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat 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. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Kapil Sharma, Advocate for the petitioner.

Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate for respondent No.2.

P.B. BAJANTHRI, J.

1.) In the instant writ petition, petitioner has questioned the Award dated 10.1.2011 (Annexure P-4) passed by the Industrial Tribunal-cum-Labour Court, Panipat. Second respondent-Smt. Sunita Rani was appointed as a Sweeper on a monthly salary of Rs.2300/- in the month of November, 1999. It is stated that her services were terminated on 3.7.2000. She has raised an industrial dispute. The same was referred to Industrial Tribunal-cum-Labour Court. The Management-petitioner have failed to produce any material before the Labour Court which has been recorded and award has been passed in favour of respondent No.2. To that effect she is entitled to reinstatement with continuity in service along with

50% back wages from the date of demand notice i.e. 22.1.2002. The Management-petitioner aggrieved by the Award dated 10.1.2011 presented this petition.

2.) Learned counsel for the petitioner vehemently contended that petitioner has not worked for 240 days which has been admitted by the second respondent in her cross-examination. The same has not been taken note of by the Labour Court. Therefore, the Award dated 10.1.2011 is to be set aside. On the other hand, learned counsel for the second respondent submitted that Labour Court has taken note of entire facts including the fact that the petitioner-Management have failed to furnish any material to deny the claim of the second respondent. Thus, the Award was passed in favour of the second respondent. There is no infirmity in the award. Hence, this petition be dismissed.

3.) Heard learned counsel for the parties.

4.) The Labour Court framed an issue whether the services of second respondent Smt. Sunita Rani have been terminated validly or not? To support the termination of the second respondent, Management-petitioner have not furnished any material to show that her termination is in order and there is compliance of provisions of Industrial Disputes Act. One and only contention raised by the Management-petitioner is that the second respondent has not discharged duties of the post held by her for 240 days with reference to admission in the cross-examination. Whereas, the Labour Court in Para 12 held as follows:-

“Seen from other angle also, the work-lady as WW1, she has categorically averred that she was engaged by the respondent and worked for more than 240 days. Respondent has not produced any record to deny claim of work-lady. In view of this, it is crystal clear that whatever is stated by workman in her affidavit stand admitted and that action taken by the respondent in an illegal manner and services were illegally terminated.”

4.) The Management-petitioner have failed to produce any necessary material to show that the second respondent has not worked for 240 days. They could have produced attendance register in respect of the staff of the petitioner-institution so as to demonstrate that the second respondent has not worked for more than 240 days. Therefore, they cannot rely on the cross-examination statement made by respondent No.2 for the reasons that she is only Sweeper and is an illiterate lady. Her oral statement cannot be taken into consideration. At the same time, the Management-petitioner have failed to produce necessary material to demonstrate that second respondent has not worked for more than 240 days. In view of these facts and circumstances, the Award dated 10.1.2011 is upheld.

5.) Civil Writ Petition stands dismissed.

6.) No order as to costs.

**(P.B. BAJANTHRI)
JUDGE**

July 12, 2016.

sandeep sethi