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

CWP-17304-2011
Date of decision: 14.01.2016

Om Parkash Sharma

..... Petitioner

VERSUS

Presiding Officer and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Naveen Gupta, Advocate for respondent No.2.

SABINA, J.

Petitioner has filed this petition challenging the impugned award dated 13.04.2011 (Annexure P-3).

Petitioner has raised an industrial dispute by serving a demand notice challenging his termination. The dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal-cum-Labour Court, Panipat by the appropriate Government.

The case of the petitioner in brief was that he had joined the services of the respondent No.2 as Beldar in the month of October, 1995 and had continued working at different stations upto 08th June, 2004.

Respondent No.2 in its written statement took up the plea that the petitioner had worked with them from November, 1995 and had left the job in May, 1996 of his own accord.

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

- (i) whether the services of Sh. Om Parkash Sharma have been terminated validly or not? If not, whether he is entitled to any relief ? OPW
- (ii) whether the demand notice is not maintainable as alleged ? OPM
- (iii) Relief.

Learned counsel for the petitioner has submitted that in order to establish the fact that the petitioner had worked with respondents from October, 1995 to 08th June, 2004. Petitioner had examined WW-2 Ashish Gupta, Sub Divisional Officer. The said witness had proved on record documents mark-1 to mark-93. The genuineness of the said documents were admitted by MW-1 S.K. Arora in his cross-examination. The Industrial Tribunal-cum-Labour Court has, however, not discussed the said documents while passing the impugned award.

On the other hand, learned counsel for the respondent No.2 has opposed the petition and has submitted that the petitioner had worked with it for a short period and had himself left the job. The petitioner had only worked for 130 days with breaks with respondent No.2.

Record of the Industrial Tribunal-cum-Labour Court was summoned. A perusal of the record reveals that the petitioner in order to prove his case had appeared in the witness-box as WW-1 and had examined Ashish Gupta, Sub Divisional Officer as WW-2. WW2 had deposed that he had brought the summoned record and placed the photocopies of the intends on record as Mark 1 to Mark 93. The said documents were put to MW-1 S.K. Arora, Executive Engineer in his cross-examination. A perusal of the impugned award reveals that the learned Presiding Officer has failed to discuss the said documents while passing the impugned award. The learned Presiding Officer was required to consider the documents Mark 1 to Mark 93 and then come to the conclusion as to whether reliance could be placed on the said documents or not. However, in the absence of any discussion qua the said documents it would be just an expedient to set aside the impugned award and direct the Industrial Tribunal-cum-Labour Court to decide the reference afresh in accordance with law.

Accordingly, this petition is allowed. Impugned award, Annexure P-3 is set aside. The Industrial Tribunal-cum-Labour Court is directed to dispose of the reference afresh, in accordance with law.

January 14, 2016
Ramandeep Singh

(SABINA)
JUDGE