

In the High Court of Punjab and Haryana at Chandigarh

Civil Writ Petition No. 17444 of 2011
Date of Decision: 01.4.2016.

Ved Pal

.....Petitioner

Versus

The Industrial Tribunal-cum-Labour
Court-II, Gurgaon and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Binat Sharma, Advocate for
Mr. Rajneesh Chadwal, Advocate
for the petitioner.

Mr. Raj Kumar Makkad, DAG, Haryana.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing the award dated 9.4.2009 (Annexure P-1).

Petitioner had 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-II, Gurgaon by the appropriate Government.

Case of the petitioner, in brief, was that he had worked as Mali-cum-Chowkidar with the respondent management with effect from 1.1.1980 and his services were illegally terminated on 1.1.2004.

Respondent management in its written statement averred that the petitioner had worked under it on daily wage basis for seasonal work. Petitioner had worked for 18 days in the month of June 2001, 29 days in the month of November 1992 and 27 days

in the month of December 1992. It was denied that the services of the petitioner had been terminated on 1.1.2004.

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

- “1. Whether termination of services of the workman is justified ? If so, to what relief he is entitled to? OPW
2. Whether the Forest Department does not cover within the definition of an industry? OPM
3. Relief.”

Parties led their evidence in support of their respective pleas.

Industrial Tribunal-cum-Labour Court vide its award dated 9.4.2009 (Annexure P-1) dismissed the reference sought by the petitioner. Hence, the present petition by the petitioner-workman.

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

Case of the petitioner was that he had worked with the respondent management continuously from 1.1.1980 to 31.12.2003 and his services had been illegally terminated. Respondent management examined RW-1 Bhoop Singh, who deposed that the petitioner was engaged on daily wage basis and the details of the period for which the petitioner had worked (as given by the said witness) is reproduced in para 11 of the award and the same reads as under:-

“The respondent department has examined RW-1 Bhoop Singh, who tendered his affidavit Ex. RW-1, wherein, he

deposed that the services of the workman were engaged on daily wages basis. As per the record available with the respondent department, he had worked for 31 days in 1985, 94 days in 1986, 141 days in 1987, 29 days in 1988, 56 days in 1989, 162 days in 1991, 171 days in 1992, 60 days in 1993, 31 days in 1994, 100 days in 1995, 27 days in 1997 and 18 days in 2000. RW-1 stated that, accordingly, the workman had not rendered 240 days of continuous service in any calender year. This, accordingly, proved that workman had not worked for a continuous period of 240 days in any calender year or in the 12 months just preceding his alleged date of termination. But his services were engaged on daily wages basis.”

From the statement of RW-1, it was evident that the petitioner had not worked for 240 days in the year preceding the date of his termination. Hence, the reference sought by the petitioner was liable to be dismissed as provisions of Section 25-F of the Industrial Disputes Act, 1947 were not attracted in the present case. The Industrial Tribunal-cum-Labour Court had, thus, rightly dismissed the claim of the petitioner.

No ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

**(SABINA)
JUDGE**

April 01, 2016
Gurpreet