

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 17698 of 2011
Date of Decision: 01.4.2016.**

Randhir

.....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 12.5.2008 (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 1.1.1993 and his services were illegally terminated on 1.11.1999.

Respondent management in its written statement averred that the petitioner had never worked as a Mali-cum-Chowkidar as alleged by him.

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

- “1. Whether termination of services of the petitioner 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 12.5.2008 (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.

Petitioner while appearing in the witness box deposed as per the contents of his claim petition. Respondent management, on the other hand, had examined MW-1 Brahma Nand who deposed that the petitioner had never been engaged by the respondent management from 1.1.1993 to 31.10.1999. Petitioner had failed to prove on record any document or pay slip to establish that he had ever worked with the respondent management. The learned Industrial Tribunal-cum-Labour Court rightly held that there was no relationship of master and servant between the parties. Consequently, the reference sought by the petitioner was liable to be dismissed. In the facts and circumstances of 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