

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 17719 of 2011
Date of Decision: 01.4.2016.**

Reshmi

.....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 11.4.2008 (Annexure P-1).

Petitioner had raised an industrial dispute by serving a demand notice challenging her 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 she had worked as Mali-cum-Chowkidar with the respondent management with effect from 1.1.1993 and her services were illegally terminated on 29.4.1997.

Respondent management in its written statement averred that the petitioner had been appointed as a Mali-cum-

Chowkidar on daily wage basis for doing seasonal work. Petitioner had not completed 240 days of continuous service in any calendar year. The Aravalli project was closed on 31.10.1999.

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

- “1. Whether termination of services of workman Smt. Reshmi Devi is justified and if not to what relief she is entitled to? OPM*
- 2. Whether the forest department is not an industry? OPM*
- 3. Relief.”*

Parties led their evidence in support of their respective pleas.

Industrial Tribunal-cum-Labour Court vide its award dated 11.4.2008 (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.

Case of the petitioner, in brief, was that she had worked with the respondent management from 1.1.1993 to 29.4.1997 and her services had been illegally terminated. On the other hand, case of the respondent management was that the petitioner had merely worked on daily wage basis. It was further the case of the respondent management that the Aravalli project had been closed on 31.10.1999 and as such, no work was available for engaging the petitioner. MW-1 Hoshiyar Singh gave the detail qua the number of

days the petitioner had worked from July 1993 to March 1997.

Para 9 of the award in this regard reads as under:-

“On the other hand, the respondent department has examined MW-1 Hoshiyar Singh, who stated that the workman/petitioner was engaged on daily wages basis. She had worked for 27 days in July 1993, 31 days in August 1993, 20 days in September 1993, 30 days in November 1993, 31 days in January 1994, 28 days in February 1994, 31 days in March 1994, 30 days in April 1994, 31 days in May 1994, 30 days in June 1994, 31 days in July 1994, 31 days in August 1994, 31 days in October 1994, 30 days in November 1994, 10 days in July 1995, 23 days in August 1995, 31 days in October 1995, 30 days in November 1995, 27 days in December 1995, 20 days in June 1996, 31 days in July 1996, 31 days in August 1996, 28 days in February 1997 and 27 days in March 1997 as per detail given in Ex. MW1/A.”

A perusal of the details with regard to number of days the petitioner had worked reveals that the petitioner had not put in 240 days of service in 12 preceding months prior to her termination. Since the petitioner had failed to establish that she had put in more than 240 days of service in the year preceding the date of her termination, the reference sought by the petitioner was liable to be declined as provisions of Section 25-F of the Industrial Disputes Act, 1947 were not attracted in the present case. Accordingly, the impugned award passed by the Industrial Tribunal-cum-Labour Court is liable to be upheld though for different reasons.

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