

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

CWP No.20881 of 2010

Date of Decision:06.12.2016

State Bank of Patiala

... Petitioner

Vs.

Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh

and another

... Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. A.K. Ahuja, Advocate and
Mr. C.B. Goel, Advocate for the petitioner.

Mr. Saurav Khurana, Advocate for respondent No.2.

P.B. BAJANTHRI J.

In the instant petition, the petitioner has assailed the award passed by the Labour Court dated 14.5.2010 (Annexure P-9).

Respondent No.2 was appointed as sweeper-cum-peon in the petitioner's bank during the period from 1994 to February 2002. In the month of February 2002, the services of respondent No.2 were terminated.

Learned counsel for the petitioner submitted that respondent was appointed as a sweeper-cum-peon on part time basis. Therefore, he has no right to continue to hold the post of sweeper since his nature of appointment itself is temporary/adhoc and question of reinstatement and other benefits may not arise. The Labour Court adjudicated the reference whether the action of the management of State Bank of Patiala, Panchkula in terminating the services of respondent No.2 w.e.f. 9.2.2002 without complying the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act is just and proper.

The Labour Court considered various facts and documentary material which has been stated in the award which reads as under:

“(4) That workman was paid wages directly by the management. The management has shown that the workman was working on contract. There is no iota of evidence on record to prove that there was any contract in between the two persons or there was any contract entered into of any contractor and the contract, as stated earlier, workman shall be deemed to be directly engaged by the management. The documents filed by the workman proved that he was directly engaged by the management. The difference is regarding the payment of wages. The workman has stated that he was getting Rs.1,500/- per month. On the other hand, the management has stated that the contractual amount in lieu of the work done by the workman was given to him by vouchers at the rate of Rs.50/- per day. In my view both of the statements are correct. If Rs.50/- per day as the daily wages were given to the workman, it come to the tune of Rs.1,500/- per month. The documents on record particularly Ex.W2 proves that he was directly engaged by the management. W2 is the certificate issued by Manager, State Bank of Patiala, Inter Branch Reconciliation Cell, Chandigarh, Sector 27, on 9.10.2006. In this certificate it has been stated by the management that Shri Jaipal son of Shri Narinder Pal worked with the bank from July 1995 to August 1996 as Sweeper. Thereafter, he has been transferred to Mohali Branch. Ex.W3 is the addresses and telephone nos. of the Staff Region-II, Haryana, Panchkula. The name of Shri Jaipal figured at seiral no.22. In W3 he is shown as PT-W and his address is shown as 1679, Naya Gaon. This is a typed document and certainly cannot be said to be fabricated by the workman. Ex.4 and 5 are the applications written to the bank by the workman on different dates and Ex.W6/3 is the copies of the letter of employment exchange regarding sponsoring the name of Jaipal to the department. W7 is the letter of the bank written by the Manager to the Assistant General Managing regarding the appointment of part time sweeper on 1/3rd salaries and wages regarding Shri Jaipal

exhibits. W9 (1) to W9(10) are the receiving the wages of the workman. Sometimes the wages were received by cheque and some time in cash. Ex.W11 and Z/1 are the original copies of the peon book. In some of the documents name of Jaipal figured for discharging some other work then sweeping. The management has also filed the other part of the peon book in which the name of the Jaipal did not figured in the document filed by the management. The signature of the Jaipal at the documents figured but it cannot be relied upon by this Tribunal because there is a possibility of making the signature thereafter, the cumulative effective of the documents is that Shri Jaipal was directly, working with the management. He was paid the wages by the management directly and not through any intermiditary. The documents filed by the workman also proves that he was directly under the administrative control of the management. Thus, the contention of the management that there was no employer and employee relationship between the workman and the management cannot be relied upon. The workman was very well directly engaged by the management. He was under the administrative control of the management and was paid wages by the management.”

Even the Labour Court has taken note of the persons who are juniors to respondent No.2 like Smt. Kamlesh, Kamla and Birbal who continued in the Bank. Taking into all these facts and circumstances, the Labour Court has directed the petitioner to pay the workman wages for two months and 10 days at the prevailing rate while ordering reinstatement of respondent No.2 within a period of one month.

Learned counsel for respondent No.2 submitted that termination of respondent No.2 is in violation of Section 25-F, 25-G and 25-H of the Industrial Disputes Act. The Labour Court rightly considered the factual aspect as well as the fact that respondent-workman's juniors were

continued in the Bank. Therefore, there is no infirmity in the award passed by the Labour Court.

Heard learned counsel for the parties.

The petitioner's contention is that respondent No.2 was engaged in service as a sweeper-cum-peon on temporary basis for which he has no right over the post. Moreover, reasons for termination is that where respondent No.2 was working in the Branch that Branch got shifted to Regional Branch Office. Thus, in the interest of administration, services of respondent No.2 have been terminated. No material has been produced to demonstrate that termination of respondent No.2 is due to the shifting of Branch to its Regional office. It is an after thought. Moreover, juniors to respondent No.2 have been continued which has been taken note by the Labour Court. Thus, the petitioner has not made out a case so as to interfere with the award passed by the Labour Court.

Accordingly, the present petition is dismissed.

06.12.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**