

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 20100 of 2011
Date of Decision: 01.4.2016.**

Kela

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-
Labour Court-II, Gurgaon and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ashwani Bakshi, 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 17.9.2009 (Annexure P-5).

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 with the respondent management with effect from 1.2.1991 and her services were illegally terminated on 26.5.1998.

Respondent management in its written statement averred that the petitioner had been appointed as a Mali on daily wage basis in the Aravalli project for doing seasonal work.

Petitioner had not completed 240 days of continuous service in any

calender year.

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

“1. Whether termination of services of petitioner is justified ? If not to what relief she is entitled to? OPM

(1-A). Whether the Forest Department is not an industry as provided under Section 2(j) of the I.D. Act ? OPM

2. Whether the petitioner does not fall within the definition of workman as defined under Section 2(j) of the I.D. Act ? OPM

3. Relief.”

Parties led their evidence in support of their respective pleas.

Industrial Tribunal-cum-Labour Court vide its award dated 17.9.2009 (Annexure P-5) 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 1.2.1991 to 26.5.1998 and her services had been illegally terminated. On the other hand, case of the respondent management was that the petitioner had worked for 150 days in the year preceding the date of her termination.

RW-1 Devinder Singh deposed that the petitioner had

worked for 83 days in the year 1997 and for 67 days in the year 1998. The said witness proved on record muster rolls Exhibit M-2 to Exhibit M-8.

There is nothing on record to suggest that the petitioner had completed more than 240 days of service in the year preceding her termination. Since the petitioner had failed to establish that she had completed more than 240 days of service in a calendar year prior to the date of her termination, the reference sought by the petitioner was liable to be declined. Provisions of Section 25-F of the Industrial Disputes Act, 1947 are not attracted in the present case. In the facts and circumstances of the present case, the Industrial Tribunal-cum-Labour Court had, thus, rightly dismissed the reference sought by 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