

CWP No.1068 of 2016

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In the High Court of Punjab and Haryana at Chandigarh.

CWP No.1068 of 2016

Date of Decision:20.01.2016

Rajender Singh

...Petitioner

Versus

The Presiding Officer, Industrial Tribunal-Cum-Labour Court,
Rohtak and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sandeep Singal, Advocate,
for the petitioner.

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 impugned award dated 22.09.2015 (Annexure P-5).

Petitioner had raised an industrial dispute challenging his termination by serving a demand notice. The appropriate Government referred the dispute for adjudication to Industrial Tribunal-Cum-Labour Court, Rohtak. The reference was declined by the Industrial Tribunal-Cum-Labour Court vide award dated 22.09.2015. Hence, the present petition.

Learned counsel for the petitioner has submitted that the Industrial Tribunal-Cum-Labour Court has erred in

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declining the reference sought by the petitioner as the services of the petitioner had been terminated in violation of mandatory provisions of the Industrial Dispute Act, 1947 ('Act' for short). Petitioner had completed more than four years of service before his services were terminated.

Case of the petitioner, in brief, was that he was appointed as Beldar-cum Pump Operator by the respondent-management on 23.03.1996. Services of the petitioner were terminated on 28.11.1997. Petitioner raised an industrial dispute and the Labour Court vide its award dated 20.12.2007 ordered the reinstatement of the petitioner with continuity of service and 50% back wages. The said award was challenged by the Management in this Court and the same was set aside. Petitioner was again appointed by the respondent-Management in February 2008. However, services of the petitioner were terminated on 25.05.2012.

The respondent-Management in its written statement averred that in-fact petitioner had been allowed to join his duties in pursuance to the award passed by the Labour Court in February 2008. However, the writ petition filed by the Management challenging the award of the Labour Court was allowed by this Court vide order dated 22.10.2008. The said order came to the notice of the respondent-Management in May 2012 and in the consequence thereto

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petitioner was relieved from his duties.

Thus, in the present case, admittedly, petitioner had joined the respondent-Management as Beldar-cum-Pump Operator on 23.03.1996 and his services were terminated on 28.11.1997. Thereafter, petitioner raised an industrial dispute and the Labour Court vide its award dated 20.12.2007 ordered reinstatement of the petitioner in service with continuity of service and 50% back wages. In pursuance to the said award, petitioner was permitted to join his duties in February 2008. However, the award passed by the Labour Court was set aside by this Court vide order dated 22.10.2008. It is the case of the respondent-Management that it came to know about the order passed by this Court in May 2012 and consequently petitioner was relieved from his duties. The plea taken by the petitioner that in-fact he had been given a fresh appointment in February 2008 is without any basis as petitioner had been reinstated in February 2008 on the basis of the award passed by the Labour Court dated 20.12.2007. The award passed by the Labour Court was set aside by this Court vide order dated 22.10.2008. In case the petitioner had been appointed after the passing of the order dated 22.10.2008 by this Court, the plea taken by the petitioner that he had been issued fresh appointment would have been correct.

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In the facts and circumstances of the present case, the learned Labour Court had thus rightly declined 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.

January 20, 2016
kapil

(SABINA)
JUDGE