

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

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**CWP No. 18104 of 2012(O&M)
Date of decision: 19.09.2016**

Parbhagia Van Adhikari

.... Petitioner

Versus

Jai Kishan and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Anil Mehta, DAG, Haryana.

Ms. Arti, Advocate for respondent No.1.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of the Award dated 30.11.2011 passed by the Industrial Tribunal-cum-Labour Court, Panipat vide Annexure P3.

2. The respondent No.1-workman is stated to have been appointed as Mali in the Forest Department on 01.01.1998. His services have been terminated on 06.06.2004. The respondent submitted applications on 02.01.2008, 23.01.2008 and 21.05.2008 for summoning the records which is part of the lower court record which has been perused. The Labour Court did not summon the records as requested by the respondent. In the absence of summoning records, finding has been given that the respondent has not worked for 240 days. An extract of the award is reproduced herein:-

“8. On the other hand Ld. GP/AR for the

respondent has referred to the depositions Shri Ashok Kumar, RFO as MW1 as made in his affidavit Ex.MW1/A to the effect that the workman had not worked 240 days in the last calendar year. He has also referred documents Ex.WW1/2 to Ex.WW1/5 and therefore, the question of completion of continuous service of 240 days by him, as envisaged under Section 25-B of the Act, does not arise at all and the workman has failed to lead as cogent evident on the file to substantiate his afore-said claim and in these circumstance, he is not entitled to the benefit and protection under Section 25-F of the Act.

9. The workman has not led any cogent evidence/documents to prove that the completion of continuous service of more than 240 days in the last preceding 12 calendar months from the date of termination. The respondents has admitted in the written statement that the workman had not worked in a single day in the last calendar year but he had worked only during the period for 299 days in the year 1998, 151 days in the year 1999, 27 days in the year 2000, 36 days in the year 2001, 192 days in the year 2002, 44 days in the year 2003. The total working days of the workman i.e. 749 days only.”

3. In view of the non-summoning of records and learned counsel for the petitioner submitted that as per the Award, when the respondent-workman has not completed 240 days, he is not entitled to compensation awarded by the Labour Court. In view of the non-consideration of workman's application for summoning records and examination of the case by the Labour Court, Annexure P3 dated 30.11.2011 (Annexure P3) is set aside. The Labour court is requested to decide the reference No. 329 of

2004 afresh within a period of 6 months from today.

4. Registry of this Court is directed to return the LCR to the Industrial Tribunal-cum-Labour Court, Panipat at the earliest.
5. Accordingly, Civil Writ Petition stands disposed of.

19.09.2016
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No