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

CWP No.15088 of 2015

Date of decision: March 21, 2016

Gulbahar

.....Petitioner

Versus

Presiding Officer and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Yowan Sharma, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the award dated 21.05.2014 (Annexure P-6).

Petitioner had raised an Industrial dispute by serving a demand notice challenging his termination. The said dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal-cum-Labour Court-I, Gurgaon by the appropriate Government.

The case of the petitioner, in brief, was that he was working with the respondent-Management as a Driver w.e.f. 15.10.2001. However, the services of the petitioner were terminated on 02.07.2009 without complying with the mandatory provisions of Industrial Disputes Act, 1947 ('Act' for short).

Respondent-Management in its written statement averred that the petitioner was discharged from service as he was engaged in dual employment. Petitioner had received all

his legal dues. Petitioner was served with the show-cause notice qua his dual employment, but he never replied the said notice and continued working with M/s Top Wheels Tours and Travels Private Limited.

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

- "1. Whether the services of workman were illegally terminated? If so, he is entitled to any relief? OPW
2. Whether the reference is not maintainable in the present form? OPM
3. Relief."

Parties led their evidence in support of their respective pleas.

The Industrial Tribunal-cum-Labour Court vide award dated 21.05.2014 dismissed the reference sought by the petitioner. Hence, the present petition by the petitioner.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

In the present case, petitioner had challenged his termination by serving a demand notice. The case of the petitioner was that his services had been terminated in violation of provisions of the Act, whereas, the case of the respondent-Management was that the petitioner was engaged in dual employment as he was working in two institutions at the same time.

In order to establish the fact that the petitioner was also working with M/s Top Wheels Tours and Travels Private

Limited, MW2 Samir was examined by the respondent-Management. The said witness proved on record Exhibit MW-2/1 to Exhibit MW-2/6, i.e. the record relating to payment of salary. A perusal of Exhibit MW-2/1 to Exhibit MW-2/6 reveals that the petitioner had received wages for the month of September 2008, November 2008, December 2008, March 2009 and May 2009 from M/s Top Wheels Tours and Travels Private Limited. The said documents bear the signatures of the petitioner. There is nothing on record to suggest that the said documents were not, in fact, signed by the petitioner. In these circumstances, the Industrial Tribunal-cum-Labour Court rightly held that while working with the respondent-Management, petitioner was also working with the M/s Top Wheels Tours and Travels Private Limited. In these circumstances, the termination order passed by the respondent-Management was liable to be upheld.

No ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India, is made out.

Dismissed.

**(SABINA)
JUDGE**

March 21, 2016
mahavir