

**In the High Court of Punjab and Haryana at Chandigarh**

**Civil Writ Petition No. 7300 of 2011  
Date of Decision: 01.4.2016.**

Chander Kanta

.....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.

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**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 3.8.2009 (Annexure P-8).

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 1.5.1994 and her services were illegally terminated on 1.6.1998.

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. It was further the case of the respondent management that the petitioner had only worked for 90 days as per the details given in the written statement. The Aravalli project was closed on 31.10.1999.

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 and if not what relief she is entitled to? 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 3.8.2009 (Annexure P-8) 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 was that she had worked on daily wage basis with the respondent management from 1.5.1994 upto 1.6.1998 and her services had been illegally terminated by the respondent management. On the other hand, case of the respondent management was that the petitioner had worked on daily wage basis in the Aravalli project with breaks. Aravalli project

was closed on 31.10.1999.

The details of service tenure of the petitioner as given by RW-1 Sripal and reproduced in para 10 of the award read as under:-

*“The respondent department has examined RW-1 Sripal, who tendered his affidavit Ex. R-1 and documents Ex. R-1/A to Ex. R-9. RW-1 deposed that the services of the workman were engaged on daily wage basis in the Aravali Project with notional breaks. RW-1 has proved the Annexure R-1/A, thereby, showing that the workman had worked for 28 days in February, 1995, 17 days in July, 1996, 22 days in August, 1996, 17 days in September, 1996, 18 days in October, 1996, 23 days in July, 1997, 21 days in August, 1997 and 3 days in February, 1998. He has also tendered Ex. R-2 to Ex. R-9 which also proved that the services of the workman were engaged on daily wages basis for doing seasonal work and he was paid wages on DC rates for the period she had actually worked with the respondent department.”*

Thus, it is evident from the statement of RW-1 that the petitioner had not completed 240 days of service in the year preceding the date of her termination. Consequently, provisions of Section 25-F of the Industrial Disputes Act, 1947 are not attracted in the present case. Hence, the reference sought by the petitioner was liable to be dismissed. The Industrial Tribunal-cum-Labour Court had, thus, rightly dismissed the claim of 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