

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 4288 of 2013
Date of Decision: 31.3.2016.**

State of Haryana and anotherPetitioners

Versus

Presiding Officer, Industrial Tribunal-cum-Respondents
Labour Court, Panipat and another

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.K.Makkad, DAG, Haryana.

Mr. Samrat Malik, Advocate
for respondent No. 2.

SABINA, J.

Petitioners have filed this petition under Article 226 of Constitution of India seeking a writ in the nature of certiorari for quashing the award Annexure P-3.

Respondent No. 2 had raised an industrial dispute by serving a demand notice challenging his termination. The dispute raised by respondent No. 2 was referred for adjudication to the Industrial Tribunal-cum-Labour Court, Panipat by the appropriate Government.

Case of respondent No. 2, in brief, was that he had joined the services of the petitioners as a Class-IV employee on 4.8.1998 and his services were illegally terminated on 1.3.2000.

Case of the petitioners was that respondent No. 2 had been employed as a part time employee on 4.8.1998 as a stop gap arrangement. Sanction for part time employees was given on year

to year basis as per requirement and they were paid the salaries as per D.C rates. Services of respondent No. 2 lapsed on 29.2.2000 as further sanction for the post was not given by the department.

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

- “1. Whether the services of workman Shri Ishwar Singh are legal and valid? If not so, to which relief is entitled? OPW*
- 2. Relief.”*

Parties led their evidence in support of their respective pleas.

Industrial Tribunal-cum-Labour Court vide its award Annexure P-3 held that respondent No. 2 was entitled for reinstatement with continuity of service and 25% back-wages from the date of demand notice i.e. 4.8.2005. Hence, the present petition by the petitioners-management.

I have heard learned State counsel and the learned counsel for respondent No. 2 and have gone through the record available on the file carefully.

In the present case, respondent No. 2 had worked on part time basis with the petitioners as a Class-IV employee from 4.8.1998 and his services were terminated with effect from 1.3.2000. The said fact was admitted by MW-1 Devender Kumar examined by the petitioners. Annexure P-2 is the reply submitted by the petitioners with regard to the demand notice submitted by respondent No. 2. A perusal of the said reply shows that it was not the case of the petitioners that respondent No. 2 had not completed 240 days of service in the year preceding his termination. Rather,

the case of the petitioners was that service tenure of respondent No. 2 already stood automatically lapsed as no sanction had been granted by the department. Since respondent No. 2 had completed more than 240 days of service in the year preceding his termination and his services had been terminated in violation of provisions of Section 25 of the Industrial Disputes Act, 1947, the learned Industrial Tribunal-cum-Labour Court rightly held that respondent No. 2 was entitled for reinstatement in service. The Industrial Tribunal-cum-Labour Court has already restricted the back-wages to 25% and that too from the date of service of demand notice.

In the facts and circumstances of the present case, the award passed by the Industrial Tribunal-cum-Labour Court Annexure P-3 calls for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India.

Dismissed.

**(SABINA)
JUDGE**

March 31, 2016
Gurpreet