

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5054 of 2013

Date of Decision:- 26.5.2016.

Bhagwant Singh

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. S.L. Chander Shekhar, Advocate for the petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

P.B. BAJANTHRI, J.

1.) In the instant writ petition, the petitioner has questioned the order dated 5.3.2012 of the Industrial Tribunal, Amritsar vide Annexure P-1.

2.) The petitioner is stated to have appointed on 1.3.1983 as a general labourer with respondent Nos.2 and 3 in the Forest Department, Amritsar Division. He had submitted application under Section 33-C (2) of the Industrial Disputes Act, 1947 that he had not been paid salary for the period from 1.3.2005 to 31.5.2005, 1.6.2005 to 31.5.2008 and 1.1.2009 to 28.2.2009. The Labour Court

considered the application and held as follows:-

“9. Before coming to the conclusion, it is to be seen whether the relationship between the parties as master and servant exists. The onus to prove this fact heavily lies upon the applicant and he has not adduced an iota of evidence with regard to his employment with the respondents. The applicant claimed that he has served as general labour with the respondents since 1.3.1983 and, lastly, served on 28.2.2009. Meaning thereby, the length of service is about 26 years, but no proof with regard to the employment, payment of salary/wages or identity card has come on file. In the lack of adequate evidence, this Tribunal comes to the conclusion that neither relationship exists as master and servant between the parties exists, nor, any proof has come on file whether applicant served with the respondents, as pleaded.

10. Now, it is to be seen whether applicant served with the respondents since 1.3.1983, then to see whether he has served for the period claimed from 1.3.2005 to 31.5.2005, 1.6.2005 to 31.5.2008 and 1.1.2009 to 28.2.2009. The respondent is a forest department and is agreement government body. While passing order against the respondents, this Tribunal is to satisfy its own consciousness whether the applicant actually served with the respondents as claimed or not. From the narrow screening of the judicial file, this Tribunal is of the view that no proof has come on file with regard to the employment of applicant

with the respondents or with regard to the services rendered for the period claimed. Applicant not adduced any proof of his employment and also not dared to summon the record of the respondent department, which is government body. No officer of the respondents is to pay salary to the applicant from his own pocket, rather if the applicant served with the respondents, then the respondent department is to pay salary/wages from the government account. In case the applicant served with the respondents as claimed, then he might have received the salary/wages and it was easy to summon the record of the respondents regarding payment of wages/salary. I found force in the arguments, advanced by Sh. T.R. Mattu, A.R. for the respondents, that when employment/labour is alleged, then applicant must have some proof in his possession and to adduce it on judicial file, which is withheld.”

3.) In view of the above finding of the Labour Court, the petitioner has not furnished any documents to show that he has discharged the duties during the aforesaid period. Therefore, Labour Court has rightly rejected the claim of the petitioner. No interference from this Court is called for.

4.) Petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

May 26, 2016.

sandeep sethi