

CWP-2709-2016

[1]

In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision: 11.02.2016

Municipal Parishad now Municipal Committee, Palwal

...Petitioner

Versus

Presiding Officer and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jatinder Nagpal, Advocate,
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India challenging the award dated 01.09.2015 (Annexure P-2).

Respondent No.2 had raised an industrial dispute by serving a demand notice challenging her termination. The said dispute was referred for adjudication to Labour Court by the appropriate Government.

Case of respondent No.2, in brief, was that she had worked as a Mali with the petitioner-Committee from January 1996 onwards and her services were terminated on 16.11.2009 without complying with the mandatory provisions of the Industrial Disputes Act, 1947 ('Act' for short).

Notice was issued to the petitioner-Committee but

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none had appeared on its behalf and it was proceeded ex parte vide order dated 02.11.2010.

Respondent No.2 led her evidence in support of her case. The Labour Court vide its award dated 01.09.2015 answered the reference in favour of respondent No.2 and held that she was entitled to be reinstated in service with continuity of service and 50% back wages.

Learned counsel for the petitioner has submitted that respondent No.2 was not the employee of the Committee and had rather worked under the supervision and control of the Contractor.

In the present case, the case of respondent No.2 was that she had worked with the Committee as a Mali from January 1996 till 15.11.2009 and her services were terminated on 16.11.2009 without complying with the mandatory provision of the Act.

In order to prove her case, respondent No.2 herself appeared in the witness box as WW-1 and examined Devender Kumar, Clerk of the petitioner-Committee as WW-2. Respondent No.2 produced various documents on record. Respondent No.2 had produced on record certificate dated 31.07.2009 to establish that she had been working with the Committee from 01.01.1996 onwards. The said certificate has been placed on record as Annexure P-1. Perusal of the same

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reveals that the same had been issued by the Secretary of the Committee to the effect that respondent No.2 was working under them as a Mali from 01.01.1996 at a monthly salary of ₹4,000/- The certificate was issued on 31.07.2009. Although, the certificate had been issued on the request made by respondent No.2 for obtaining gas connection but a perusal of the same shows that respondent No.2 was working under the Committee from 01.01.1996 onwards. Respondent No.2 had also placed on record copies of daily attendance register.

Since, Clerk of the petitioner-Committee had been examined by respondent No.2 as her witness, it is evident that the Committee was aware of the pendency of the proceedings before the Labour Court but had failed to appear and defend the proceedings before the Labour Court. The evidence led by respondent No.2 had gone un-rebutted. Consequently, Labour Court rightly directed that respondent No.2 was entitled for reinstatement in service.

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

Dismissed.

February 11, 2016
kapil

(SABINA)
JUDGE