

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

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CWP No. 3688 of 2015(O&M)

Date of decision:08.11.2016

M/s Jotindra Steel and Tubes Ltd., Faridabad

.... Petitioner

Versus

Shri Nath and another

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. M.K.Sood, Advocate for the petitioner.

Ms. Abha Rathore, Advocate for respondent No.1.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has assailed the award passed by the Industrial Tribunal-cum-Labour court dated 20.08.2014 vide Annexure P3.

2. Respondent No.1-workman is stated to have been appointed as an Operator in the month of January, 2004. On 27.01.2005, respondent No.1-workman met with an accident in the petitioner's factory premises while operating machine whereby his three right hand fingers were amputated. The petitioner has terminated services of respondent No.1-workman on 21.07.2005. It was further submitted that on the very same day, demand notice was issued. The Industrial Tribunal-cum Labour Court framed the following issues:-

- “1. Whether the services of the claimant terminated illegally, if so, to what effect:OPW
2. Whether the claim is not maintainable?OPR
3. Whether workman has no existing right to file the claim?OPR
4. Whether the claimant has not come in court with clean hands?OPR”

3. The Industrial Tribunal after perusal of records and oral evidence has come to the conclusion that the petitioner has not adduced any evidence to prove that respondent No.1-workman abandoned services. Thus, the Industrial Tribunal allowed the claim of respondent No.1-workman while directing reinstatement with continuity in service and full backwages. The petitioner aggrieved by the Award of the Labour court dated 20.08.2014 presented this petition.

4. Learned counsel for the petitioner vehemently contended that respondent No.1-workman has not proved that he has worked for 240 days and no material has been produced to show that he has worked for 240 days. Hence, Section 25 of the Industrial Disputes Act, 1947 is not attracted. The workman was appointed in the month of January, 2004 and he has worked upto 27.10.2005. After perusal of the oral evidence and records relating to accident occurred in the petitioner's premises vide Exhibits W-1 to W-3. The petitioner stated to have entered into compromise on 05.10.2005 vide Exhibit W-5. Even though, the respondent was working, his services have been terminated illegally on 27.11.2005. In view of these facts and circumstances, no ground is made out so as to interfere with the Award of the Labour court dated 20.08.2014.

5. However, respondent No.1-workman has not discharged the duties of the post during the intervening period and he has not produced any

material to show that he was not gainfully employed, therefore, order of full backwages to the respondent-workman is modified to the extent of payment of 80% backwages.

6. Accordingly, petition stands disposed of.

08.11.2016
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No