

113

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

CWP No.2944 of 2016

Date of decision: February 15, 2016

Jagdish Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari challenging the award dated 28.08.2014 (Annexure P-4).

Petitioner had raised an Industrial dispute by serving a demand notice challenging his termination. The appropriate Government referred the said dispute for adjudication to the Industrial Tribunal, Bathinda.

The case of the petitioner, in brief, was that he had been appointed as Milk Procurement Assistant by the Management and had worked w.e.f. 05.12.2001 to 02.05.2002. Management had taken resignation of the petitioner under pressure. A criminal case was registered against the petitioner and other workmen by the Management, but they were acquitted by the Court.

Respondent-Management in its, written statement,

took up the plea that the petitioner had himself resigned from Job and the same was duly accepted by the respondent-Management. A criminal case was registered against the petitioner and other workmen under the directions of this Court as the experience certificates submitted by them were found fictitious.

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

- "1. Whether the resignation was obtained from the workman under pressure by the Management? (OPW)
2. In case, issue No.1 is prove, whether alleged termination is illegal and unjustified? (OPW)
3. Whether the claimant has continuously served with the respondents for the period of more than 240 days in a preceding calendar year to his alleged termination?(OPW)
4. Whether the reference is not maintainable? (OPM)
5. Whether claimant has no locus standi and cause of action to file the present reference? (OPM)
6. Relief."

Parties led their evidence in support of their respective pleas.

The Industrial Tribunal vide its award dated 28.08.2014 declined the reference sought by the petitioner. Hence, the present petition by the petitioner-workman.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

In the present case, admittedly, petitioner had not completed 240 days of service prior to his termination. Petitioner had challenged his termination after a gap of eight years by serving demand notice on 07.06.2011 alleging that his termination on 02.05.2002 had been ordered without following due process of law. However, respondent-Management had placed reliance on resignation submitted by the petitioner. The case of the petitioner was that the said resignation had been taken under pressure. However, petitioner had failed to establish the said fact. A criminal case was also registered against the petitioner on the directions of this Court as the experience certificate submitted by the petitioner was found to be fictitious. However, later petitioner was acquitted in the said case. In the facts and circumstances of the present case, the learned Tribunal rightly held that the petitioner was not entitled to grant any relief as he had failed to establish that the resignation submitted by him had been taken under pressure.

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

Dismissed.

**(SABINA)
JUDGE**

February 15, 2016
mahavir