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

CWP No.363 of 2016

Date of decision: January 11, 2016

Sita Ram Sharma

.....Petitioner

Versus

The Presiding Officer and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Aditya Yadav, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the award dated 03.07.2015 (Annexure P-1).

Petitioner raised an Industrial dispute by submitting a demand notice challenging his termination by respondent No.2. The said dispute was referred by the appropriate Government for adjudication to Industrial Tribunal-cum-Labour Court-I, Gurgaon.

The case of the petitioner, in brief, was that he was working as a salesman with the respondents since 1998 and his services had been illegally terminated on 24.08.2012 without complying with the mandatory provision of Industrial Disputes Act, 1947.

The case of respondent No.2 in its written statement was that the petitioner, in fact, was its customer and used to purchase goods on credit basis. In fact,

respondent No.2 was to recover cost of some goods from the petitioner and had filed civil suit for recovery. Petitioner had never worked with it as its employee.

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

- “1. Whether the services of workman were illegally terminated? Whether, he is entitled to any relief?OPW
2. Whether the reference is not maintainable in the present form?OPM
3. Relief.”

Petitioner led his evidence in support of his case, whereas, respondent No.2 did not lead any evidence. The Industrial Tribunal-cum-Labour Court vide the impugned award dated 03.07.2015 dismissed the claim of the petitioner. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the petitioner had been successful in establishing before the Industrial Tribunal-cum-Labour Court that he had been working with respondent No.2 from the year 1998 till the date of his termination. The civil suit filed by respondent No.2 against petitioner was dismissed vide Annexure P-2.

In the present case, the claim of the petitioner was that he had worked as a salesman with respondent No.2 from the year 1998 till 24.08.2012. However, the relationship of employer and employee was denied by

respondent No.2 in its written statement. In order to substantiate his claim that the petitioner was working with respondent No.2 as a salesman, petitioner proved on record Exhibit P-1 to P-11. While rejecting the claim of the petitioner, it has been noticed by the Industrial Tribunal-cum-Labour Court that petitioner had admitted in his cross-examination that the documents Exhibit P-1 to P-11 did not mention the name of respondent No.2. Petitioner had failed to produce on record any appointment letter issued to him by respondent No.2. Exhibit P-1 to P-11 did not show that they had been issued by respondent No.2. In this factual background, the learned Industrial Tribunal-cum-Labour Court had rightly come to the conclusion that the petitioner had failed to establish that he was an employee of respondent No.2.

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

Dismissed.

**(SABINA)
JUDGE**

January 11, 2016
mahavir