

114

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

CWP No.3840 of 2016

Date of decision: February 26, 2016

Jaibir

.....Petitioner

Versus

The Divisional Forest Officer and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Neeraj Kumar, 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 for quashing the award dated 07.02.2011 (Annexure P-1).

Petitioner had raised an Industrial dispute by serving a demand notice challenging his termination. The dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal-cum-Labour Court, Rohtak by the appropriate Government.

The case of the petitioner, in brief, was that he was appointed as a Beldar-cum-Gardener with the respondent-Management on daily wage basis w.e.f. 12.05.1989. However, services of the petitioner were illegally terminated on 16.09.1997 without complying with the mandatory

provisions of the Industrial Disputes Act, 1947 ('Act' for short).

Respondents No.1 and 2 in their written statement averred that the petitioner was employed with the respondents as daily wage worker w.e.f. August 1989 to June 1997 and had worked with considerable breaks. In fact, petitioner had himself left the job. It was denied that any person junior to the petitioner had been retained by the answering-respondents.

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

- "1. Whether the termination of services of workman is justified and, if not, to what relief he is entitled to? OPM
2. Whether the mgt. does not fall within the definition of industry as alleged?OPM
3. Relief."

Parties led their evidence in support of their respective pleas.

The Industrial Tribunal-cum-Labour Court vide its award dated 07.02.2011 dismissed 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, the case of the petitioner was

that he had worked with respondents No.1 and 2 from 15.09.1996 to 14.09.1997 and his services had been terminated in violation of the mandatory provisions of the Act. Respondents produced on record Exhibit M1 details of the working days of the petitioner as well as Muster Rolls Exhibit M2 to M54. As per the said documents, petitioner had worked for 36 days in the year 1989, 95 days in the year 1990, 135 days in the year 1991, 244 days in the year 1992, 223 days in the year 1993, 187 days in the year 1994, 231 days in the year 1995, 87 days in the year 1996 (till August 1996) and for 95 days in the year 1997. Thus, as per the documentary evidence proved on record, it was evident that the petitioner had not worked for 240 days in the year preceding his termination, i.e. 15.09.1996 to 14.09.1997. Hence, Industrial Tribunal-cum-Labour Court rightly held that the provisions of Section 25F of the Act were not attracted in the present case.

A perusal of the impugned award further reveals that during the course of arguments, the authorised representative of the petitioner-workman had stated that the petitioner-workman did not intend to claim the relief against the respondents No.1 and 2 under Section 25G and 25H of the Act. It has been further noticed by the Industrial Tribunal-cum-Labour Court that the petitioner while appearing in the witness-box had not stated that any person

junior to him had been retained by the respondents No.1 and 2.

In the facts and circumstances of the present case, 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 26, 2016
mahavir