

In the High Court of Punjab and Haryana at Chandigarh

Civil Writ Petition No. 4072 of 2016
Date of Decision: 01.3.2016.

Joginder Singh

.....Petitioner

Versus

Executive Engineer, PWD and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. N.K.Malhotra, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 226 of Constitution of India seeking a writ in the nature of certiorari challenging the award dated 17.10.2014 (Annexure P-4).

Learned counsel for the petitioner has submitted that the petitioner had worked with the respondent management since April 1988. At the time of termination of services of the petitioner, mandatory provisions of the Industrial Disputes Act, 1947 ('Act' for short) had not been complied with. Inder Singh, junior to the petitioner, had been retained in service.

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

Case of the petitioner, in brief, was that he had joined the services of the respondent management on 2.4.1988 as a Beldar on daily wage basis. However, services of the petitioner

were orally terminated on 1.8.2000. Juniors to the petitioner, had been retained in service whereas services of the petitioner were terminated.

Respondent No. 1, in its written statement, denied the contention of the petitioner that he was working with the management since 2.4.1988. It was denied that there existed any relationship of employee and employer between the parties.

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

- “1. Whether termination of services of Sh. Joginder is justified and, if not, to what relief he is entitled to? OPW*
- 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.

Learned Industrial Tribunal-cum-Labour Court vide the impugned award dated 17.10.2014 (Annexure P-4) dismissed the reference sought by the petitioner. Hence, the present petition by the petitioner-workman.

In the present case, respondent No. 1 proved on record muster rolls Exhibit M-1 to Exhibit M-12. As per the muster rolls proved on record, petitioner had not worked for 240 days in 12 months preceding the date of his termination i.e. 1.8.2000. Hence, the Industrial Tribunal-cum-Labour Court rightly came to the conclusion that provisions of Section 25-F of the Act had not been violated in the present case. So far as the plea of the petitioner

that Inder Singh son of Phool Singh had been retained in service is concerned, the Industrial Tribunal-cum-Labour Court rightly held that the petitioner had failed to establish the said fact.

WW2-Anil Kumar Sub Divisional Clerk in the office of respondent No. 1 had deposed that Inder Singh son of Phool Singh had been appointed on 1.1.1989 and had been made permanent on 31.3.1993. WW3-Ishwar Singh deposed that petitioner had worked with him in the year 1989 and from 1990 to 1992. WW-4 Satbir deposed that petitioner had worked with him from the year 1989 upto 1995-1996.

Thus, the plea of the petitioner that Inder Singh was junior to him was not established on record because as per the evidence on record, Inder Singh started working with the management with effect from 1.1.1989 and as per the witnesses examined by the petitioner, he had also worked from the year 1989. In these circumstances, the provisions of Section 25-G of the Act were not attracted in the present case.

Since the petitioner had failed to establish his case, the Industrial Tribunal-cum-Labour Court had, thus, rightly declined the reference sought by the petitioner.

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

Dismissed.

**(SABINA)
JUDGE**

March 01, 2016
Gurpreet