

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 4350 of 2016
Date of Decision: 04.3.2016.**

Gursewak Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Ms. Monika, Advocate for
Mr. H.K.Brinda, Advocate
for the petitioner.

SABINA, J.

Petitioner had raised an industrial dispute by serving a demand notice dated 9.6.2011 challenging his termination. The dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal by the appropriate Government.

Case of the petitioner, in brief, was that he had joined the services of the respondent as a Chowkidar on 2.4.1999 and his services were terminated on 29.3.2003 without complying with the mandatory provisions of Industrial Disputes Act, 1947 ('Act' for short).

Respondent management was proceeded *ex parte*.

In support of his case, petitioner led his evidence. The Industrial Tribunal vide award dated 16.4.2014 ordered reinstatement of the petitioner with continuity of service but without back-wages. Hence, the present petition has been filed by

the petitioner challenging the part of the award of the Industrial Tribunal dated 16.4.2014 (Annexure P-2) whereby relief of back-wages was declined to him.

Learned counsel for the petitioner has submitted that services of the petitioner had been terminated without complying with the mandatory provisions of the Act. Hence, petitioner was liable to be reinstated in service with continuity of service with full back-wages. The Labour Court has declined the relief of back-wages without giving any reasons.

In the present case, the petitioner had worked as a *Chowkidar* with the respondent management from 2.4.1999 to 29.3.2003. Respondent management was proceeded *ex parte* before the Industrial Tribunal. Since the evidence led by the petitioner had gone un rebutted, the Labour Court rightly came to the conclusion that the petitioner had completed more than 240 days of service and his services had been terminated without complying with the mandatory provisions of Section 25-F of the Act. The Industrial Tribunal further held that the petitioner was entitled for the relief of reinstatement with continuity of service. Although, the Labour Court has not given any reasons for declining the relief of back-wages to the petitioner but the said part of the award whereby relief of back-wages was declined to the petitioner, is liable to be upheld as in the present case, the services of the petitioner were terminated in March 2003 whereas he had served the demand notice in June 2011. On account of delay in raising the dispute, the relief of back-wages was liable to be declined to the petitioner.

Hence, 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**

March 04, 2016
Gurpreet