

107

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

**CWP No.4657 of 2016 (O&M)
Date of decision: March 11, 2016**

Jagdish Kumar

.....Petitioner

Versus

The Presiding Officer and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Manu K. Bhandari, 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 23.07.2012 (Annexure P-9).

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

The case of the petitioner, in brief, was that he was appointed as a Peon with respondent No.3-Management on 26.07.1994 and his services were terminated w.e.f. 05.07.1996 without complying with the mandatory provisions of Industrial Disputes Act, 1947 ('Act'

for short).

Respondents No.2 and 3 in their written statement averred that in terms of the order dated 19.06.1996 passed by this Court, services of the petitioner along with other contingency paid employees were dispensed with on 05.07.1996. Petitioner along with other employees were called for interview on 06.12.1996, but the petitioner had failed to appear.

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

- "1. Whether services of workman stand validly terminated by the management and in order? If not so, to whether relief is he entitled? (OPR)
2. Whether workman does not fall in the definition of workman under the provisions of Industrial Disputes Act? (OPR)
3. Whether the respondent is not an Industry within the provisions of Industrial Disputes Act? (OPR)
4. Whether workman estopped by his own and conduct? (OPR)
5. Relief."

Parties led their evidence in support of their respective pleas.

The Industrial Tribunal vide impugned award dated 23.07.2012 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.

Admittedly, petitioner was working as a Chowkidar with respondents No.2 and 3 from 26.07.1994 to 28.02.1995. Thereafter, petitioner was appointed as a Peon on 15.11.1995. Admittedly, in view of the decision given by this Court, services of the petitioner along with other contingency paid employees were dispensed with on 05.07.1996. The case of respondent No.2 and 3 was that the petitioner along with other contingency paid employees were called for interview on 06.12.1996. However, petitioner failed to appear for the interview. In these circumstances, the learned Industrial Tribunal rightly held that the petitioner was not entitled to any relief as he had himself failed to appear for the interview on the date fixed by the respondents-Management.

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 11, 2016
mahavir