

CWP No. 7681 of 2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 7681 of 2013
Date of Decision : 27.05.2016

Dharamjit Singh

...Petitioner

Versus

Presiding Officer, Industrial Tribunal, Jalandhar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

- 1) *Whether Reporters of the local papers may be allowed to see the judgment?*
- 2) *To be referred to the Reporters or not?*
- 3) *Whether the judgment should be reported in the Digest?*

Present: Ms. Divya Sharma, Advocate for the petitioner.

Mr. Bhuwan Luthra, Advocate
for respondents No. 2 and 3.

P.B. Bajanthri, J.(Oral)

Affidavit of Sibani C, Executive Director, Punjab Scheduled Castes Land Development and Finance Corporation, Chandigarh has been filed in Court today. The same is taken on record.

In the instant writ petition, the petitioner has questioned the order dated 01.12.2011 passed by respondent No. 1 (Annexure P-1).

Brief facts of the case are that the petitioner was appointed as a helper in the month of August, 2000. His

appointment was made by respondent No. 3-District Manager, Punjab S.C. Land Development and Finance Corporation, Jalandhar. While working as such, petitioner was interviewed for the post of Driver on 12.10.2000 by respondent No. 3 and was recruited as Driver. He joined as a driver on 03.11.2000. The petitioner has been paid monthly salary of ₹3000/-. It is alleged that the petitioner for the purpose of appointing him as a Driver, has bribed respondent No. 3. Due to some misunderstanding between the petitioner and respondent No. 3, his services had been terminated on 14.06.2001. Reference was ordered on 20.09.2007. The Labour Court passed an award on 01.12.2011 by holding that the petitioner is not entitled for re-instatement. He is entitled only for the compensation. Feeling aggrieved by the order, award of the Labour Court dated 01.12.2011, the petitioner has filed the present petition.

Learned counsel for the petitioner contended that the petitioner has been wrongly terminated. The Labour Court has framed four issues, which reads as follows :-

- “1. Whether the applicant falls within definition of the 'workman' u/s 2(s) of the I.D. Act? OPW.*
- 2. Whether the respondent falls within definition of the Industry u/s 2(j) of the I.D. Act? OPW*
- 3. Whether there was relationship of master and servant between the parties? OPW*
- 4. Whether the services of the workman were illegally terminated? If so what relief the workman entitled to? OPW.”*

The Labour Court given finding in respect of issues No. 1 to 3 in favour of the workman. Insofar as issue No. 4 is concerned, it was against the workman for the reason that the petitioner (workman) did not fulfill the conditions of 240 days work and the same is not reflected in the Govt. register. It was held that petitioner is entitled for compensation. Learned counsel for the petitioner further submitted that he was appointed as a Helper in the month of August, 2000. If service of the petitioner as a Helper is taken into consideration, he will fulfill the condition of 240 days. The Labour Court has failed to consider the service rendered by the petitioner as a Helper. It was further argued that respondents have not disputed relating to discharge on the post of Helper as well as Driver by the petitioner. The only contention is that the petitioner was not appointed by the competent authority, namely, Executive Director, therefore, petitioner is not entitled to re-instatement with back wages.

Per contra, learned counsel for the respondents submitted that petitioner was not appointed as a Driver by respondent No. 3-District Manager. The competent authority to appoint the petitioner to the post of Driver is Executive Director. It was further contended that petitioner has not completed 240 days in the driver post so as to claim that termination is illegal and entitlement of back wages.

Heard learned counsel for the parties.

Perused the records. It is evident that petitioner has

worked as a Helper as well as Driver. In fact, one of the Management witness, namely, Charanjit Singh, has adduced evidence before the Labour Court stating that petitioner has discharged duties of the post of Driver. Therefore, the services rendered by the petitioner as a Helper and Driver is taken into consideration. The petitioner fulfills the condition of 240 days working. The Labour Court while passing award in respect of issue Nos. 1 to 3, was ordered in favour of the workman. Only in respect of issue No. 4 is concerned, it was rejected.

Having regard to the evidence of the Management witness, namely, Charanjit Singh (RW1) read with written statement in para 7, it is evident that petitioner has worked and discharged the duties of the post of Helper and Driver. The only hurdle to grant relief to the petitioner is that he was not appointed by the Competent Authority, namely, Executive Director. The District Manager has appointed the petitioner as Helper as well as Driver rightly or wrongly. For non-compliance of Industrial Disputes Act, termination order is held to be bad and award dated 01.12.2011 (Annexure P-1) is modified to the extent that petitioner is entitled to re-instatement with 50% back wages.

Petition stands disposed of in above terms.

May 27, 2016.
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(P.B. BAJANTHRI)
JUDGE