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

CWP No.5245 of 2016

Date of decision: March 18, 2016

The Vice Chancellor, Kurukshetra University
Kurukshetra and another

.....Petitioners

Versus

The Presiding Officer and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.S. Rana, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of Certiorari for quashing the award dated 03.12.2015 (Annexure P-1).

Respondent No.2 had raised an Industrial dispute by serving a demand notice challenging his termination. The said dispute raised by respondent No.2 was referred for adjudication to Labour Court, Ambala by the appropriate Government.

The case of respondent No.2, in brief, was that he had worked as a Helper/Beldar with the petitioner-University from 01.06.2001 to 31.05.2007 on daily wage basis. However, the services of respondent No.2 were verbally terminated by the Sub Divisional Officer on 31.05.2007 without complying with the mandatory provisions of Section

25F of the Industrial Disputes Act, 1947 ('Act' for short).

Petitioner-University in its reply averred that respondent No.2 had never worked with the University on a permanent post and had worked on daily wage basis as per requirement. On account of implementation of outsourcing policy, no work was left with the University and question of further engagement of workman did not arise.

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

- "1. Whether the termination of the services of workman is liable to be set-aside being wrong, illegal, null and void etc. and the workman is entitled to reinstatement in service with full back wages and all the benefits including the continuity of service?OPW
2. Whether the workman has no locus-standi to file the present claim statement?OPM
3. Whether the claim statement is not maintainable in the present form?OPM
4. Whether there is no relationship of master and servant between the employer and employee?OPM
5. Whether the workman is estopped from filing the claim statement? If so its effect?OPM
6. Whether the workman has concealed the true and material facts from the Court? If so its effect?OPM
7. Whether the workman has no cause of action to file the present claim statement?OPM
8. Relief."

Labour Court vide award dated 03.12.2015 held that respondent No.2 was entitled for reinstatement in service with continuity of service but without back-wages. Hence, the present petition by the petitioners-University.

I have heard learned counsel for the petitioners and have gone through the record available on the file carefully.

In the present case, the case of respondent No.2 was that he had worked with the petitioner-University from 01.06.2001 to 31.05.2007 on daily wage basis as a Helper/Beldar. In order to prove his case, respondent No.2 himself appeared in the witness-box as WW1. Respondent No.2 further examined Ravinder Singh, Assistant working with the University who produced the relevant record. As per the record produced by WW2, respondent No.2 had worked for 289 days in the year preceding the date of termination of his services. Since the services of respondent No.2 had been terminated without complying with the mandatory provisions of Section 25F of the Act, the learned Labour Court rightly held that respondent No.2 was entitled for reinstatement in service.

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 18, 2016
mahavir