

**CWP-5540-2016**

**[1]**

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**In the High Court of Punjab and Haryana at Chandigarh.**

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**Date of Decision:22.03.2016**

Satish

...Petitioner

Versus

The Presiding Officer and others

...Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. Balraj Gujjar, Advocate for  
Mr. Mohit Rathee, Advocate,  
for the petitioner.

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**SABINA, J.**

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in nature of *certiorari* for quashing the award dated 16.12.2015.

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

Case of the petitioner, in brief, was that he had worked from 16.07.1997 to 21.09.1997 at Primary Health

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Centre ("PHC" for short) Kalanaur. Thereafter, petitioner served at PHC Kiloj w.e.f 16.05.1998 to 20.10.1998. Thereafter petitioner worked at the same Centre w.e.f. 04.08.1999 to 01.10.1999 on daily wage basis. Thereafter petitioner worked as a Health Assistant w.e.f. 12.09.2005 to 31.10.2005 at District Malaria Office, Rohtak. Thereafter, petitioner again worked at PHC Kiloj w.e.f. 30.05.2007 to 30.07.2007. Petitioner was transferred to the Secrecy Branch of the University as a Vehicle Cleaner and worked with the respondents-management w.e.f. 21.09.2007 till 08.01.2012. However, services of the petitioner were terminated in violation of the mandatory provisions of the Industrial Disputes Act, 1947 ("Act" for short).

Respondents-University in its written statement averred that there was no relationship of workman and employer between the parties. In fact, petitioner was working under a Contractor as a Labourer from July 2008 to December 2011. There was no post of Vehicle Cleaner in the Secrecy Branch of the University. The post of Vehicle Cleaner was advertised by the University for Transport Office. Petitioner had also submitted his application and was called for interview on 14.05.2011. However, petitioner was not found fit for selection by the Selection Committee.

Respondent No.4 in its written statement averred

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that the petitioner was engaged by them under the scheme of Seasonal Spray Staff from 16.07.1997 to 30.09.2007 with breaks. Services of the petitioner had not been transferred to the respondent-University.

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

- “1. *Whether termination of services of the workman is justified and if not, to what relief he is entitled? OPW*
2. *Whether the reference is not maintainable? OPM*
3. *Relief.”*

Parties led their evidence in support of their respective pleas.

Industrial Tribunal vide award dated 16.12.2015 dismissed the reference sought by the petitioner. Hence, the present petition by the petitioner-workman.

Learned counsel for the petitioner has submitted that petitioner had worked with the respondents-University for more than three years. Services of the petitioner had been terminated without complying with the mandatory provisions of Section 25-F of the Act.

In the present case, the Industrial Tribunal-cum-Labour Court after appreciating the evidence led by the parties on record has held that the case of the petitioner was

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that he had been transferred by respondent No.4 to the University i.e. respondents No.2 and 3. However, there was no proof on record in this regard. Petitioner had failed to lead any evidence to the effect that he had received salary from the University. He had also failed to prove on record any appointment letter issued by the University. Hence, the plea taken by the respondents-University that there was no relationship of master and servant between the parties was rightly believed by the Industrial Tribunal-cum-Labour Court. Since, the petitioner had failed to establish that he had worked under the respondents-University, learned Industrial Tribunal-cum-Labour Court rightly dismissed the reference sought by the petitioner.

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

Dismissed.

**March 22, 2016**  
*kapil*

**(SABINA)**  
**JUDGE**