

LPA no.1210 of 2015 (O&M) 1

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

**LPA no.1210 of 2015 (O&M)
Date of Decision : 09.12.2016**

The Principal Chief Conservator of Forest, Haryana and another

....Appellant(s)

Versus

Smt. Birmati and another

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Ms. Kirti Singh, DAG, Haryana for the appellant

Mr. Sandeep Thakan, Advocate for respondent no.1-workman

MAHESH GROVER, J.

This appeal is directed against the judgment dated 16.1.2015 upholding the award of the Labour Court granting reinstatement to the respondent – workman alongwith 50% back wages.

The workman had approached the Labour Court with a plea that she had been engaged w.e.f 1.7.1992 and her services were terminated in 1999.

The appellants disputed this period but admitted that the workman was engaged with them since 1994. They also pleaded that she never completed 240 days itself in one calender year so as to entitle her to raise a plea of wrongful termination in violation of the provisions of Section

We notice that the workman had summoned the original record from the Forest Department to discharge her onus satisfactorily.

The appellants produced incomplete record inviting a conclusion by the Labour Court that there was a violation of provisions of Section 25-F of the Act resulting in the award of the Labour Court ordering reinstatement alongwith 50% back wages from the date of demand notice.

Learned Single Judge affirmed the findings which is now a cause of grievance to the appellant and after hearing learned counsel for the parties, we are of the opinion that there is no illegality or infirmity in the impugned judgment.

The workman had worked for 7 years with the appellants to face termination without any reason and without compliance of the provisions of Section 25-F of the Act.

Length of service and the abrupt termination would be considerations to cure the illegality in adverse orders to the workman to ensure his reinstatement.

The appellants failed to establish their plea of the workman being engaged with them since 1994 having produced incomplete records despite the demand by the workman. There would be an adverse inference to be derived against the appellants to conclude that the workman worked with them w.e.f. 1992 instead of 1994 as claimed. 7 years is a sufficiently long period for an employee to be engaged and thus keeping in view the settled provisions of law where reinstatement has to be considered by keeping in mind the length of service and nature of engagement, we would reject the contention of the learned counsel for the appellant to uphold the

barred by delay of 140 days in filing, which is largely unexplained.

Hence, dismissed.

Let the workman be taken in service forthwith.

(Mahesh Grover)
Judge

09.12.2016

rekha

(Shekher Dhawan)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No