

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA no. 1357 of 2015 (O&M)
Date of Decision : 02.12.2016

Executive Engineer, PWD, Public Health Division no.2, Hisar

....Appellant(s)

Versus

Smt. Sharda Devi and another

...Respondent(s)

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

Present : Mr. Kirti Singh, DAG, Haryana

Mr. Vivek Khatri, Advocate for respondent – workman

MAHESH GROVER, J.

This appeal is directed against the judgment of the learned
Single Judge 25.5.2015.

The respondent-workman raised an industrial dispute
questioning termination of her services on the ground of violation of
provisions of Section 25-F of the Industrial Disputes Act (hereinafter
referred to as the 'Act').

While answering the reference learned Labour Court took
notice of the plea of the workman in this regard to test it against the stand of
the appellants who contend that the workman was merely employed on part
time basis and her services were dispensed with when regular employee

joined.

Labour Court noticed that there is no material on record to show that the services of the workman were terminated on the availability of the regular hand. It went on to establish that there was complete violation of provisions of Section 25-F of the Act. While disposing of the reference it ordered reinstatement of the workman alongwith 50% back wages which findings in writ proceedings initiated by the present appellants were affirmed.

Learned counsel for the appellants reiterated virtually the same submissions which were before the Labour Court and the writ Court i.e workman being a part time employee and services being replaced by a regular hand warranted her termination. It is thus pleaded that even if the best case of the respondent is accepted, the appellants cannot be burdened with back wages.

Prayer is opposed by the learned counsel for the respondent who has supported the reasoning adopted by the learned Single Judge.

After hearing learned counsel for the parties, we are of the opinion that there is absolutely no material on record to persuade us to take a contrary view than the one taken by the learned Labour Court or learned Single Judge.

There is nothing to establish that provisions of Section 25-F have not been violated. Workman had put in service with the appellants w.e.f 1992 to 2006 which is sufficiently long period and to throw her out of that juncture would be extremely harsh and that too without compliance of the provisions of Section 25-F of the Act. We are thus of the opinion that

there is absolutely no error in the judgment impugned which would warrant the interference by us in Letters Patent Appeal.

Hence, dismissed.

(Mahesh Grover)
Judge

02.12.2016

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(Shekher Dhawan)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No