

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

LPA No.1225 OF 2016(O&M)
Date of decision: 17.10.2016

Vinod Kumar

.. Appellant

vs.

Presiding Officer and anr.

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
 Hon'ble Mr. Justice Harinder Singh Sidhu**

Present:- Mr. Ashok Tyagi, Advocate
 for the appellant.

Rajesh Bindal, J.

By filing the present intra-court appeal the order passed by learned Single Judge dismissing the writ petition has been challenged whereby the award of the Labour Court was upheld.

The case of the appellant is that he was employed with respondent No.2-establishment in July 1996 as Assistant Store Keeper. No appointment letter was given. On 16.05.1997 he met with an accident. After he was medically fit, he went to join his duty on 17.09.1997 but the management refused to take him back in service. Demand notice dated 06.01.1998 was got issued. The dispute was referred to the Labour Court. On account of absence of the representative of the appellant, the Labour Court answered the reference against the appellant on 02.09.2008. Thereafter, an application was filed for re-calling the said order on 22.10.2008, which was dismissed on 11.11.2009. The writ petition was filed in this Court on May 30, 2012, which was also dismissed.

The stand of learned counsel for the appellant is that one opportunity be granted to the appellant to lead evidence to show that he was employed with respondent No.2-establishment and his services were illegally terminated.

After hearing learned counsel for the appellant, we do not find any error in the order passed by learned Single Judge. Even as per admitted case of the appellant for which there is no documentary evidence available with him, he worked with the respondent-establishment from July 1996 to May 1997. There is no document to show that the appellant was employed by the respondent-establishment. Though, it is claimed that the dispute was raised by getting a demand notice served in the month of Jan. 1998, however, the matter was not pursued. It was referred to the Labour Court only in the year 2003. Before it was answered against the appellant, admittedly despite availing four opportunities, no evidence was led. The representative of the appellant did not appear in the Court on 02.09.2008 when the Labour Court finally decided the reference. It is not in dispute that date of hearing was in the knowledge of the appellant as well as his representative still the application for recalling the order was filed more than 30 days thereafter on 22.10.2008, which was dismissed on 11.11.2009. The award dated 02.09.2008 passed by the Labour Court was challenged in this Court by filing the writ petition in May 2012, which was dismissed on 15.10.2015. Even the present appeal has been filed with a delay of 25 days in filing and 118 days in re-filing thereof. There is nothing on record to suggest that the appellant was ever employed with the respondent-establishment. Definite stand taken by the establishment was that there was

no relationship of the employer and the employee.

Considering the aforesaid factual matrix, we do not find any error in the order passed by learned Single Judge.

The appeal is accordingly dismissed and consequently the accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

17.10.2016
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No