

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

**LPA No.236 of 2016 (O&M)
Date of Decision : 12.02.2016**

Parbhagia Van Adhikari Social Forestry Division, Sonapat

.... Appellant

Versus

Smt. Savitri and Another

.... Respondents

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present:- Mr. Lokesh Sinhal, Addl. A.G., Haryana
for the appellant

HARINDER SINGH SIDHU, J.

This intra Court appeal under clause X of the Letters Patent has been filed against the judgment dated 04.09.2015 whereby the writ petition (CWP No.22255 of 2012) filed by the appellant challenging the award of the Industrial Tribunal-cum- Labour Court, Panipat directing reinstatement of respondent No.1 in service with continuity of service and 50% back wages, has been dismissed.

Though there is delay of 95 days in filing the appeal and the appellant has filed application (CM No.470-LPA-2016) for condoning the said delay, yet we have heard learned counsel for the appellant on merits.

Respondent No.1-workman submitted a demand notice

dated 13.03.2004 alleging that she had been continuously working with the appellant for the period from 15.07.1980 to 30.06.1999 as a Mali and was drawing a monthly salary @ Rs.2200/-. When she demanded that her services be regularized, the appellant orally terminated her services on 01.07.1999 without any notice and compensation and thereby acted in violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947. The matter was referred to the Labour Court.

Before the Labour Court, in addition to her own deposition regarding her employment for the stated period, respondent No.1 summoned an official witness Ramesh Kumar, Clerk as WW-3. He was directed by the Court to bring the summoned record pertaining to her. Despite repeated opportunities, he failed to produce the Muster Roll, leaving the learned Labour Court with no option except to draw an adverse inference for not producing the summoned record. Thereby taking it as proved that respondent No.1 had been illegally and unlawfully terminated from service after completion of about 19 years of service and that she had completed more than 240 days in the last calendar year, learned Labour Court directed her reinstatement with continuity in service and 50% back wages.

This award was challenged by the appellant by filing the writ petition, which has been dismissed by the learned Single Judge by holding that there is no jurisdictional error in the decision of the Labour Court nor is it vitiated by an error of law apparent on the face of the record.

Even before us, learned counsel for the appellant has not been able to point out any such illegality warranting interference in the appeal. Moreover, as stated in the written statement filed on behalf of respondent No.1, the award of the Labour Court has long since been implemented and she has joined duty on 01.06.2012. For this reason also, there is no ground to interfere with the award of the Labour Court as also the decision of the learned Single Judge.

Accordingly, there is no merit in the appeal and the same is dismissed.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

12.02.2016
Atul