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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8418/2016

RAJ KUMAR

..... Petitioner

Through: Mr. K.B. Hina, Adv.

versus

JUNIOR ENGINEER DEPARTMENT OF
CANAL AND ANR

..... Respondents

Through: Mr. Arun Bhardwaj, Addl. Advocate
General with Mr. Nikhil Bhardwaj, Adv.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **21.10.2016**

1. The petitioner seeks regularization in service with the Department of Canal, Government of Haryana, having its office at Canal Rest House, Siraspur, Delhi. The regularization was sought on the basis of a scheme of the Government of Haryana wherein any workman having completed 240 days of service in the preceding three calendar years as of 30.09.2003, would be entitled to regularization.
2. The learned counsel for the petitioner has been unable to show any records in this regard for the period for which the petitioner has worked as contract labour with the respondent. Evidently, the petitioner did not work in any calendar year for 240 days and indeed for the relevant years he served for 45 days in 1998, 26 days in 1999, 208 days in 2000, 104 days in 2001, 95 days in 2002, 114 days in 2003, 104 days in 2004, 78 days in 2005, 104 days in 2006, 104 days in 2007 and 78 days in 2008.

3. Obviously, the petitioner did not meet the required days to be considered for regularization. Furthermore, the petitioner did not lead any evidence to show that he had worked for more than 240 days. When the respondent presented its muster roll to show the aforesaid days of working of the petitioner, such evidence was neither challenged nor doubted nor disputed. To that extent the respondents have proved their case. There is no error in the conclusion reached in the impugned order that the petitioner did not meet the minimum requisite working days for being considered for regularization. The scheme, in any case, stands withdrawn by the State of Haryana.

4. The learned counsel for the petitioner seeks an opportunity to present the muster roll apropos the petitioner. The said contention cannot be considered because the entire exercise of examination of the muster roll has already been undertaken and accepted without any protest. The petitioner failed to prove that the muster roll presented by the respondent could be doubted or disputed.

5. The learned counsel for the petitioner relies upon the muster rolls for the months of January, July, August, October, November and December, 2005 which show that the petitioner had worked for 26 days in all these months. This evidence could have been led before the Trial Court. Assuming that the said evidence is to be accepted, even that would not fulfil the minimum criteria of 240 days of service in a year. Indeed the impugned Award records as under:

“..... 25. Ld. Counsel for the claimant stated in the written submissions that the muster roll is a manipulated document and hence no reliance be placed on it. The argument is bereft of merit. First of all no such suggestion was put to the

management witness that the muster roll being produced by the management, is a manipulated document. Secondly, no documentary evidence contrary to the evidence produced by the management by way of muster roll, was produced by the claimant to upset the claim of the management that the claimant has not worked for 240 days in any calendar year. In the absence of any such evidence, the evidence of muster roll cannot be lightly brushed aside.

26. In the net result, it is found that the claimant is not entitled to any relief in the facts and circumstances of the case. The reference is answered accordingly in the above terms....”

6. The petitioner’s contention was duly addressed. There is no reason to interfere with the impugned Award. The writ petition is without merit and is, accordingly, dismissed.

NAJMI WAZIRI, J

OCTOBER 21, 2016^{/kk}