

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

Date of decision: 13.02.2017

CWP No.3586 of 1994

The Director, Health & Family Welfare, Punjab

...Petitioner

Vs.

Satya Parkash

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Anil Sharma, Addl. AG, Punjab.

Mr. Rajesh Verma, Advocate, for the respondent.

RAJIV NARAIN RAINA, J. (ORAL)

It is well settled that a Medical Doctor is not a “workman” within the definition of Section 2(s) of the Industrial Disputes Act, 1947 and therefore, the Labour Court had no jurisdiction to adjudicate the matter and pass an award in favour of the respondent. I had occasion to opine on the issue in a detailed judgment reported as Dr. Mohinder Kumar Vs. State of Punjab & others, Vol.CLXXVIII-2015-2 PLR 189 after noticing a large number of judgments of the Supreme Court and various High Courts on the issue.

Since the respondent has to be non-suited for want of jurisdiction in the Labour Court, he prays through his counsel that he may be granted liberty to pursue his remedy in an appropriate Forum other than the industrial adjudicator. This freedom the respondent enjoys without fetters. Nevertheless, in case any proceedings are to be taken by him, the chosen Forum, I have no doubt, will keep in mind the provisions of Section 14 of the Limitation Act, 1963 and consider treating the period spent in this

litigation as falling in the exemptions in case it holds and for justifiable reason that the remedy before the Labour Court was pursued by the respondent in a bona fide belief that the case fell within the jurisdiction available before the Labour Court and thereafter before this Court.

Upon this, Mr. Anil Sharma, Additional Advocate General, Punjab, appearing for the petitioner – State prays for a safeguard that in case the respondent succeeds, the amounts paid to the respondent under Section 17-B of the Act would remain adjustable with any monetary relief, if granted by the proper Forum exercising jurisdiction over the subject matter.

With these observations, while setting aside the Award of the Labour Court, the instant petition is allowed, however, with liberty to the respondent as prayed for.

13.02.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>