

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1660 of 1998

Date of Decision: 17.04.2017

Haryana Tourism Corporation Limited

... Petitioner

Versus

The Presiding Officer, Industrial Tribunal-
Cum-Labour Court, Gurgaon and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gautam Kailey, Advocate,
for the petitioner.

Mr. Harsh Aggarwal, Advocate,
for respondent No.2.

RAJIV NARAIN RAINA, J.(Oral)

1. The Haryana Tourism Corporation Limited is bringer of this petition assailing the award of the Labour Court, Gurgaon dated November 27, 1996 granting reinstatement with continuity of service and full back wages to the 2nd respondent. The retrenchment order has been held invalid for non-compliance of the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 ("ID Act"). All other jurisdictional facts are found satisfied for grant of relief.

2. This petition filed in 1998 but stay was declined before admitting the petition for regular hearing. That is the state in which this matter has come up today for final disposal, one amongst the oldest cases pending on my regular Board.

3. Learned counsel for the Corporation states that the award has been complied with and the amounts determined and paid to the workman

long ago.

4. I find no infirmity in the award of the Labour Court which is in consonance with the law, law not only obtaining in 1996 but even today. It may be noticed that against the award the Corporation initially had filed this petition which was dismissed *in limini* by the Division Bench by passing an order which was appealed against to the Supreme Court. The Supreme Court by this order dated September 17, 1999 in Civil Appeal No.5342 of 1999 granted leave and allowed the appeal by reason of summary dismissal of the writ petition by the High Court by recording a categorical finding that no opportunity was given to the workman to offer his explanation that provision of Section 25-F of the ID Act had not been complied with. The Supreme Court found that the writ petition deserved consideration on merits but Their Lordships refrained from saying anything more so as not to prejudice the case on either side. That is how this matter has come up for final disposal.

5. Heard the learned counsel for the parties and considered their submissions.

6. I am of the considered view that there is no error apparent on the face of record of the Labour Court and that the award does not suffer from any fundamental flaw of reasoning or error apparent on the face of record presented on file. The Labour Court identified the core issue for determination which was the stand of the management that the posting order was a fresh appointment as a "Helper" and that the workman had not completed 240 days. The Labour Court examined the original document and found that cutting had been made and the typed matter has also been

tampered and the word “Helper” had been introduced with a ball pen at two places and that this cutting had not been made by the person who had signed the order or by the person who had dispatched the letter but has been interpolated. Fortunately for the workman, the order Ex.W-3 revealed itself to be a partial modification of the order issued on June 09, 1988 which posted the workman to Dharuhera in the New Wing as a Chowkidar.

7. All along the workman has served as a Chowkidar till January 25, 1989 when his services were arbitrarily and abruptly terminated without notice, charge-sheet or payment of retrenchment compensation. Even when the management took the decisive stand that the work and conduct of the workman was not satisfactory, an enquiry should have been held, observed the Labour Court and to my mind quite rightly. Apart from the merits of the case which are in favour of the workman, this matter has also been rendered infructuous because no stay was granted and the workman has continued in the service of the Corporation and is still working.

8. Accordingly, I find no merit in this petition and would dismiss the same.

(RAJIV NARAIN RAINA)
JUDGE

17.04.2017
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Whether speaking/reasoned Yes

Whether reportable No