

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

CWP No.5186 of 1996

Date of Decision: 26.5.2017

Shiv Sagar Azad

...Petitioner

Versus

Presiding Officer, Labour Court, Ambala and another

...Respondents

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

Present: Mr.GP Singh, Advocate for the petitioner

None for the respondents

...
RAJIV NARAIN RAINA, J. (Oral)

1. HUDA has filed an additional affidavit and supplied a copy to Mr. GP Singh, learned counsel for the petitioner but they have not placed the same on the judicial file. It is not found necessary to await placing of the additional affidavit on record for which there will be a needless adjournment while the matter can conveniently be disposed of. The copy of the additional affidavit which was served by Mr. Arihant Goyal, learned counsel for the respondent-Management on Mr.GP Singh, is taken on record. HUDA goes unrepresented at the hearing.

2. I have therefore heard Mr.GP Singh on the contents of the additional affidavit which confirm that the workman resigned from service on 14th August, 1995. The petitioner was a Mali appointed to serve in the HUDA Headquarters at Panchkula. If the petitioner has any subsisting claim other than the award, he may apply to the Labour Court for relief other than directly arising in the reference proceedings.

3. As far as the claim for back wages is concerned I would only say that and in view of the reasons assigned by the Labour Court, Ambala

in its award dated 16th February, 1994, denying the claim there is found substance in the argument of Mr.GP Singh that the reasons for denial of back wages are wholly untenable and cannot be sustained in law. The Labour Court has reasoned that the workman did not perform duty after 27th April, 1988. How could he perform duty when his services were terminated? The second line of reasoning is that the petitioner was employed on daily wage basis and he could earn salary only for the days he worked, and therefore, he was not held entitled to back wages by the Labour Court. This line of reasoning is also an incorrect approach and far from a constructive solution to the issue. As a matter of fact, it is not the case of the respondent-Management that the petitioner was paid wages at the end of the day. If the salary was paid month-wise, then the presumption is of continued employment though called on daily wage basis.

4. For these reasons, the writ petition is allowed qua back wages. The petitioner is held entitled to computation of money due as arrears of pay from 27th April, 1988 till the date of his reinstatement. The respondent-Management will identify the date of reinstatement from their record and thereafter determine the money due. The back wages so determined will be paid to the petitioner within three months from the date of receipt of a certified copy of this order. In case of default, the amount in default will earn interest at the rate of 6% per annum till payment.

(RAJIV NARAIN RAINA)
JUDGE

26.5.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No