

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12972-2009

Date of Decision:-06.10.2017.

Nain Singh

.....Petitioner

Versus

M/s Bayer Bioscience Pvt. Ltd. and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. G.S. Bal, Senior Advocate with
Ms. Lovinder Kaur, Advocate for the petitioner.

Mr. M.P.S. Mann, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the validity of the Labour Court award dated 11.5.2009 (Annexure P-8).

Petitioner joined the respondent-private limited company as a Helper on 9.8.1993. He has worked upto 3.12.1998. His services were terminated on the score that he remained absent when he reported at transferred place Ruderpur (Uttar Pradesh). From 3.12.1998 onwards, he remained absent. Arising out of these facts and circumstances, petitioner raised an industrial dispute. The Labour Court passed an award against the petitioner-workman. Hence, the present petition.

Learned counsel for the petitioner submitted that petitioner's services were terminated on 20.8.1996. He had issued a demand notice.

After receipt of demand notice by the respondents, respondents have entered into a settlement. Consequently, petitioner was taken back to duty on 4.7.1997. On 6.10.1998, petitioner is stated to have been transferred from Gurgaon office to Ruderpur (Uttar Pradesh). The same is disputed by the petitioner stating that no material was placed on record to show that petitioner's services were transferred to Ruderpur (Uttar Pradesh) including attendance register and other documents and so also reporting at transferred place on 7.10.1998. The respondents have created documents vide Annexures C, D and E to the effect that petitioner was appointed, fresh transfer order and voucher. Therefore, the Labour Court has erred in not appreciating whether the signatures of the petitioner on C, D and E documents are genuine or not. The petitioner being a workman is not in a position to send those documents for a forensic report due to financial condition. In fact request was made for sending Annexures, C, D and E for Government Forensic Science Laboratory. The same was declined by the Labour Court. Thus, the Labour Court has erred in not appreciating the material in favour of the petitioner. Hence, the Labour Court award is liable to be set aside.

Per contra learned counsel for the first respondent submitted that Annexures C, D and E bears the signatures of the petitioner which is not disputed by the FSL report by the private parties. The same has been appreciated by the Labour Court. Therefore, no interference is called for.

Heard learned counsel for the parties.

The respondents were asked to produce certain documents like attendance register. It was submitted that respondents unit was closed in the year 2006. Therefore, they are not in a position to place it on record. In the

absence of relevant record like attendance register in both the places at Gurgaon and Ruderpur, one cannot draw inference that petitioner's services have been transferred to Ruderpur. Further no material has been placed by the respondents to substantiate their contention that the petitioner has been transferred and he had reported on 7.10.1998 at the transferred place. In the absence of necessary material, matter cannot be decided on merit. However, in the interest of justice, since the petitioner has worked from 9.8.1993 till 3.12.1998 with certain breaks, petitioner is entitled to compensation of ₹ 2.5 lakhs. The respondents are hereby directed to pay the compensation within a period of 3 months from today. To the above extent, Labour Court award dated 11.05.2009 is modified.

Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

October 06, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.