

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

**203**

**CWP-17445-2011 (O&M)  
Date of decision:21.09.2017**

Mange Ram

....Petitioner

Versus

The Industrial Tribunal-cum-Labour Court-II, Gurgaon and others

.... Respondents

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

Present: Ms. Rimple Kadyan, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. A.G. Haryana.

**P.B. BAJANTHRI, J. (ORAL)**

In the present writ petition, petitioner has challenged the validity of the award passed by the Labour Court dated 04.05.2009 (Annexure P-1).

2. Petitioner is stated to have been appointed as a Labourer by the Forest Department under Social Forestry Project. His services were terminated on 01.08.2004. Thus, he has raised an industrial dispute. The labour court proceeded to held that petitioner has not completed 240 days in a year. That part, the date and events have been taken into consideration for denying the relief in reference No. 22 of 2007. Hence the present petition.

3. Learned counsel for the petitioner submitted that the labour court has recorded that even though petitioner had completed 240 days of continuous service he is not entitled for any relief with reference to the

decision of Supreme Court in the case titled as ***Secretary, State of Karnataka and others versus Uma Devi*** reported in (2006)4 SCC1 (para 11). Therefore, the petitioner is entitled for reinstatement. His termination was contrary to Section 25 of the Industrial Disputes Act, 1947.

4. On the other hand, learned counsel for the respondents pointed out from para 9 of the award wherein the labour court has recorded the number of working days worked by the petitioner for various months in each year. Thus, labour court has given finding that petitioner has not completed 240 days of continuous service in any calendar year. Hence petitioner is not entitled for relief and there is no infirmity in the award passed by labour court.

5. Heard the learned counsel for the parties.

6. Short question for consideration in the present petition is whether the petitioner has completed 240 days of continuous service in any calendar year or not? Labour court has given finding on issue No. 1 in para 9 which reads as under:-

*“9. The workman has examined Bhoop Singh as PW1 and the same witness is also examined by the respondent department as RW1. It is pointed out that to prove the same fact the same witness should not have been examined by both the parties. However, without going into the technicalities, I consider the statements of PW1/RW1 Bhoop Singh and the joint reading of the same shows that the services of the workman were engaged on daily wages basis in Social Forestry Project. He had worked for the first time in July, 1992. Thereafter, after working in December 1992, the*

*workman had reported for duty in the month of February, 1999 but since March and 1999 he had not turned up. This shows that the workman had worked for 31 days in August 1992, 28 days in September 1992, 31 days in October 1992, 29 days in November, 1992, 28 days in December 1992, 27 days in February 1999, 31 days in October 1992, 29 days in November 1992, 28 days in December 1992, 27 days in February 1999, 31 days in October 1992, 29 days in November 1992, 28 days in December 1992, 27 days in February 1999, 29 days in March 1999. Hence the workman had not rendered more than 240 days of continuous service in any calendar year and also 12 months just preceding the alleged date of termination. Moreover, the documents placed on file have also corroborated the stand of the respondent department that the services of the workman were engaged on daily wages basis and he was paid wages at the rated fixed by the respondent department. Moreover there is no disputes between the parties regarding non payment of wages for any period. This shows that the services of the workman were engaged in a specific project and was need based subject to availability of the work and the budget. Hence, the workman is not entitled to any relief whatsoever. In view of the prevalent law of the land as held by Hon'ble Apex Court in Secretary, State of Karnataka and others versus Uma Devi (3)(2006) 4 SCC1”.*

7. The above factual aspects were not disputed by the petitioner and not produce any material evidence so as to discard the finding arrived by the Labour Court. It is evident that petitioner has not rendered 240 days of continuous service in any calendar year. In the reference, Labour court held

that “even though he had completed 240 days it is not continuous service petitioner is not entitled for any relief with reference to decision passed in ***Uma Devi's*** case (supra). The petitioner was appointed as daily wager and he has not worked for 240 days in any calendar year. His services were terminated on 01.08.2004. He had raised industrial dispute only in the year 2007. Thus, there is delay of nearly 3 years from the date of termination also. In view of these facts and circumstances, petitioner has not made out a case so as to interfere with Labour Court award dated 04.05.2009 (Annexure P-1)

8. Accordingly, CWP stands dismissed.

**21.09.2017**

pooja saini

**( P.B.BAJANTHRI )  
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No