

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

CWP No.19165 of 2011 (O&M)

Date of Decision:28.07.2017

Vijay Singh

... Petitioner

Vs.

Presiding Officer Industrial Tribunal-cum-Labour Court-3, Faridabad and
another

... Respondents

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

Present : Mr. Rakesh Kumar Sharma, Advocate for the petitioner.

Mr. A.P. Bhandari, Advocate for respondent No.2.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has assailed the award passed by the Labour Court dated 5.10.2010 (Annexure P-7).

Petitioner is stated to have been appointed as a Tongs man on 20.01.1983 and his services were terminated on 16.4.2003. The respondents are disputing the petitioner's entry into service as on 20.1.1983 by saying that he was appointed only in the month of June 1986. On 15.2.1993, petitioner resigned from the job and settlement was entered into between the petitioner and respondent No.2. Consequently, provident fund was also closed. Thereafter, once again petitioner re-joined the services of respondent No.2 on 15.12.1993 and worked upto 31.05.2001 with so many breaks.

Break Periods are as under:

“A. 15.12.1993 to 21.4.1994

B. 1.1.1995 to 14.2.1995

C. 01.09.1995 to 25.10.1995

D. 1.3.1996 to 15.4.1996

E. 1.9.1996 to 23.2.1997

F. 1.8.1997 to 31.12.1997

G. 1.6.1998 to 30.11.1998

H. 1.6.1999 to 29.9.1999

I. 1.3.2000 to 30.6.2000

J. 1.1.2001 to 31.5.2001”

Petitioner raised an Industrial Dispute. Labour Court proceeded to pass award against the petitioner. Hence, the present petition.

Learned counsel for the petitioner submitted that he has necessary material to show that Provident Fund number was allowed to the petitioner and from time to time Provident Fund was deducted. The same was not placed on record as and when reference was made in the year 2003. In the year 2010, he has submitted an application for production of additional evidence. The same has been turn down by the Labour Court on the ground of delay in producing the material. It was further submitted that in view of the fact that he was allotted Provident Fund after 15.12.1993 for the second time which shows that he was working with respondent No.2. In view of service rendered by the petitioner from 1986 to 15.12.1993 and 15.12.1993 to 31.5.2001, petitioner is entitled for reinstatement with continuity of service and back wages etc.

Per contra, learned counsel for respondent No.2 while resisting the petitioner's claim pointed out that petitioner resigned on 15.2.1993 for the first spell. There was settlement between the petitioner and respondent No.2 so also Provident Fund was also closed. He was once again re-joined respondent No.2 on 15.12.1993. Between 15.12.1993 to 31.5.2001, there are nearly eight spells which shows that the petitioner has not continuously worked from 15.12.1993 to 31.5.2001. It was also submitted that petitioner has abandoned the services after 31.5.2001 and in the year 2001 itself the Steel Rolling Mill under which petitioner's services were engaged was closed. Having regard to the conduct of the petitioner that he never worked

continuously from 15.12.1993 to 31.5.2001, he is not entitled for any relief. Therefore, there is no infirmity in the award passed by the Labour Court.

Heard learned counsel for the parties.

Undisputedly, petitioner worked for two spells in the respondent-Unit from June 1986 to 15.2.1993 and 15.12.1993 to 31.5.2001. The contention of the respondent that petitioner has abandoned the services cannot be accepted for the reasons that as and when he remained absent from duty, it was bounden duty of the respondents to issue notice asking him to report for duty and to take necessary action to terminate his service. Further respondents were badly needed petitioner's services to run steel roll mill. Otherwise petitioner's services would not have been taken by the respondents with these many breaks in service. In the absence of such material, an inference can not be drawn that petitioner has abandoned the services.

In view of these factual aspects so also the fact that respondent-Unit was closed in the year 2001, petitioner is entitled for only compensation. The respondents are hereby directed to pay a compensation of Rs.2,00,000/- within a period of three months from today.

At this stage, learned counsel for respondent No.2 vehemently contended that as and when there is a break in service, he used to submit resignation and the same is accepted. Final settlement was also made in this regard. To this extent, no materials have been placed on record and pointed out from the case file. If the respondents are so serious of petitioner's conduct with reference to break in service. The respondents could have get rid of petitioner in the year 1993. On the contrary respondents have utilized the services of the petitioner from time to time. Consequently, the above

contention of the learned counsel for the respondent is hereby rejected.

Petition stands disposed of accordingly.

28.07.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No