

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

**CWP No.10761 of 2016 (O&M)
Date of decision: 11.5.2017**

G4S Secure Solutions (India) Pvt. Ltd.

...Petitioner

Versus

Dharam Singh and another

...Respondents

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

Present:- Mr. Ravi Kant Sharma, Advocate for the petitioner

RAJIV NARAIN RAINA, J

1. The Labour Court-II, Gurgaon has disbelieved the version of the petitioner-Management that upon transfer of the claimant to Branch Office at Jaipur from Dharuhera Branch, District Rewari, the claimant reported for duty, and thereafter, absented from work and left the job on his own for good and sufficient reasons. Firstly, the Management failed to produce the joining report of the workman in Branch Office at Jaipur as against the stand of the workman from the beginning that he was not allowed to join the duty at Jaipur.

2. Secondly, the transfer of the workman was a device to dispense with his services as measure of punishment.

3. Thirdly, no appointment letter of the workman was placed on file to prove that his services were transferable to another State.

4. Fourthly, the workman was allegedly guilty of insubordination and indiscipline on account of assaulting senior officers. This is a serious charge but no enquiry was held into the alleged incident. In any case, the incident/s was/were up to the year 2004 as per FIR No.258 dated 18th November, 2004 (Annex. P-7) under Sections 143, 341 and 323 of the IPC registered at Police Station Bhiwadi, District Alwar which was too remote an incident to transfer the claimant in 2009. The proceedings under the FIR and its status have also not been produced on the present record.

5. Fifthly, there was nothing on the file to show that the Management had complied with the provisions of Section 25-F of the Act. For these reasons, the stand of the Management was disbelieved and the reference was answered in favour of the workman entitling him to reinstatement with continuity of service and full back-wages from the date of termination i.e. 4th February, 2009.

6. Moreover, issue no.2 was whether the reference is not maintainable and the onus was placed on the Management. As per paragraph 14 of the award, the Labour Court has recorded that this issue was not pressed by the authorized representative of the Management during the course of arguments and if an issue is not pressed before the Labour Court, the same cannot be permitted to be raised before the writ court. It will deem it to have been given up.

7. For these reasons, I find no legal infirmity or any perversity in the award dated 9th January, 2015 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Gurgaon. The challenge to the impugned award fails.

8. Consequently, there is no substance in this petition which is accordingly dismissed *in limine*.

(RAJIV NARAIN RAINA)
JUDGE

11.5.2017
MFK

Whether Speaking/reasoned

Yes

Whether Reportable

No