

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15525 of 2013.

Date of Decision:-20.07.2017.

Jaswant Singh

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Sector 18-A,
Chandigarh and others

.....Respondents

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

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Abhishek Bajaj, Advocate for the petitioner.

Ms. Deepali Puri, Advocate for respondent Nos.2 and 3.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has assailed the award passed by the Labour Court dated 11.5.2012.

Petitioner is stated to have been appointed as a Tubewell Operator on daily wage basis on 7.2.1991. It is stated by learned counsel for the petitioner that petitioner was not permitted to work from 16.10.1991 onwards. Consequently, he had filed a civil suit and it was dismissed on 8.6.1998. Thereafter, civil appeal was filed and it was dismissed as withdrawn. Thereafter, writ petition was filed and so also LPA. In the LPA, it is ordered as under:-

*“L.P.A. is consequently disposed of. The
award of the learned Labour Court dated 4.5.2009 as*

well as the order of the learned Single Judge dated 16.9.2009 are set aside and the matter is remitted to the learned Labour Court for a de novo adjudication in terms of what has been indicated above. Both the contesting parties will appear before the learned Labour Court on 23.5.2011.”

Pursuant to the decision passed in LPA on 20.4.2011, petitioner approached Labour Court. Labour Court decided the Reference against the petitioner. Thus, the present petition.

Question for consideration before the Labour Court was whether petitioner had worked for 240 days or not. It was a disputed fact. The respondents-management produced some vouchers/pay bills for the disputed period to show that petitioner's name is not reflected. Thus, petitioner has failed to appreciate that he has worked for 240 days.

Learned counsel for the petitioner submitted that log books and muster rolls were not placed on record before the Labour Court or before this Court which reveals that petitioner was in service and he had completed 240 days. Regarding missing of log books and muster rolls, affidavit has been filed by one Sh. B.K. Dhawan, Superintending Engineer, on 26.8.2016. Perusal of the affidavit, nowhere it states that under what circumstances log books and muster rolls are not available. Even relying on vouchers and pay bills, it is evident that petitioner does not satisfy that he has worked for 240 days. For want of material evidence that petitioner has worked for 240 days, petitioner's claim cannot be considered for the purpose of reinstatement and back wages etc. Moreover, petitioner is out of service since 16.10.1991. Therefore, at this distance of time, question of reinstatement and back wages do not arise. At the best, petitioner is entitled

for compensation for the service rendered from 7.2.1991 to 16.10.1991. Having regard to the fact petitioner is before one or the other forum since 1991, therefore, he is entitled for compensation of ₹ 1,00,000/-. The same shall be paid by the respondents within a period of 3 months from today, failing which petitioner is entitled for interest @ 6 % per annum.

Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

July 20, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.