

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.10931 of 2017

Date of decision: 19.05.2017

Kanta Sharma

.... Petitioner

VS.

Executive Engineer, Panchayati Raj,
Panchayat Bhawan, Sonapat & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harish Nain, Advocate
for the petitioner.

Rajiv Narain Raina, J.(Oral)

1. The Courts below have returned finding of fact that there is no legal evidence to support payment of wages from 01.12.2012 to 03.12.2013 as claimed, to prove that the petitioner worked as Draftsman in the office of Executive Engineer, Panchayati Raj, Panchayat Bhawan, Sonapat. It is not disputed that the contractual service of the petitioner expired on 30.11.2012. The contract was not extended thereafter.

2. If the petitioner held over on a public post of Draftsman then she is a usurper of office without due authority of law to deal with the official record. If the dispatch register and service dak book of the office of the Block Development & Panchayat Officer, Sonapat contained signatures of the petitioner, then the department may look into this unauthorised intrusion in public office without authority.

3. Besides, it is hard to believe that the petitioner would have

served for one year after lapse of the period of employment without salary or making complaints during the currency of the period from 01.12.2012 to 11.11.2013, which is about 11 months of inactivity. It seems that the letter dated 18.01.2016 (Annexure P-1) was sent at the fag-end of the approaching date claimed by the petitioner to be 03.12.2013.

4. The petitioner has heavily relied on a marked document without it being exhibited on record by proper mode of proof and cannot serve as reliable evidence to show that she worked for the period claimed. It may have been sent by registered post but this representation including documents Marked A-13 to A-17 do not qualify as legal evidence and cannot be safely depended on to allow the claim.

5. The claim application filed under Section 15(2) of the Payment of Wages Act, 1936 was presented in 2013 but the exact date is not known from the file. The Authority of Payment of Wages Act rejected the claim of the petitioner and dismissed the application since there was not an iota of direct tangible evidence in support of the claim for unpaid wages.

6. Learned District Judge, Sonapat in its order dated 11.08.2016 exercising statutory power under the Act has appreciated the materials on record and affirmed the findings of fact recorded by the authority and dismissed the appeal.

7. The findings of fact recorded by the authorities below rejecting the claim are not open to correction or to form another view on the evidence in substitution thereof in the supervisory and discretionary writ jurisdiction exercised under Article 226 of the Constitution of India when there is no

error apparent on the face of the record or any injury caused by a miscarriage of justice.

8. Accordingly, the petition is dismissed being devoid of merit.

(RAJIV NARAIN RAINA)
JUDGE

19.05.2017
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| 1. <i>Whether speaking/non-speaking?</i> | <i>Yes</i> |
| 2. <i>Whether reportable?</i> | <i>No</i> |