

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19143 of 2013 (O&M)
Date of Decision:-09.08.2017.

M/s Gallium Industries Ltd.

.....Petitioner

Versus

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

.....Respondents

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

Present: Mr. Anil Shukla, Advocate for the petitioner.

Mr. Deepak Sonak, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 05.06.2012 (Annexure P-3).

2.) The respondent-workman is stated to have joined the petitioner as a Helper on 7.6.2000 and his services were terminated on 10.6.2002. In this regard, respondent-workman raised an industrial dispute. The petitioner's main contention before the Labour Court was that respondent-workman is not an employee of the petitioner. To substantiate the same, petitioner's Factory Manager as MW-1 Shoukat Hussain had taken the records pursuant to the period from 07.06.2000 to 10.06.2002. The same was taken note of by the Labour Court while deciding the respondent-workman's application for additional evidence dated 27.02.2009 on

24.04.2009. Whereas, the Labour Court proceeded on the presumption that petitioner-Management has not produced records despite giving ample opportunity. Therefore, proceeded to pass order in favour of the respondent-workman. Hence, the present petition.

3.) Learned counsel for the petitioner submitted that respondent-workman has not questioned the validity of the order dated 24.04.2009 based on the respondent-workman's application for additional evidence (Annexure P-6). It was further submitted that respondent-workman has not produced any material to show that he was employed by the petitioner. The Labour Court has erred in holding that petitioner-Management have not produced any material despite giving sufficient time. On the contrary, Labour Court itself has recorded on 24.04.2009 that petitioner's representative, the Factory Manager as MW-1-Shaukat Hussain who brought the company record pursuant to the period from 07.06.2000 to 10.06.2002. It was also recorded that respondent-workman failed to cross-examine all the registers brought by the MW-1-Shaukat Hussain.

4.) Per contra, learned counsel for the respondent-workman submitted that petitioner-Management have not produced relevant record like muster roll and what has been produced is only for a period of 3 months for the intervening period from 07.06.2000 to 10.06.2002 and not the entire record. Therefore, there is no infirmity in the Labour Court award.

5.) Heard learned counsel for the parties.

6.) The Labour Court has erred in not noticing the order dated 24.04.2009 wherein Labour Court itself has recorded that petitioner's Factory Manager MW-1-Shoukat Hussain who had brought the record of the company pertaining to the period from 07.06.2000 to 10.06.2002 and the

respondent-workman has failed to cross-examine all the registers brought by him. Thus, the Labour Court has erred in holding that respondent-workman is entitled to reinstatement with continuity of service etc. That apart, respondent-workman has not produced a single piece of evidence to support his claim that he was working with the petitioner during the period from 07.06.2000 to 10.06.2002 even before this Court. Therefore, award dated 05.06.2012 (Annexure P-3) is hereby set aside.

7.) Writ petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

August 09, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.