

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

1. LPA No. 1229 of 2009
Date of Decision: 25.4.2017

Shiv DayalAppellant
v.

Presiding Officer, Labour Court, Ambala and othersRespondents

2. LPA No. 275 of 2010

**The Management through the Regional Manager, Gujarat Fertilizer
Company, Chandigarhand others**

.....Appellants

v.

Shiv Dayal and anotherRespondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN**

Present:- Mr. Jaspal Singh Maanipur, Advocate, for the appellant
(in LPA No. 1229 of 2009)
for respondent No. 1 (in LPA No. 275 of 2010)

Mr. Gaurav Sharma, Advocate, for respondents No. 2 to 4
(in LPA No. 1229 of 2009)
for the appellants (in LPA No. 275 of 2010)

MAHESH GROVER, J. (Oral) :

This order will dispose of two appeals bearing LPA No. 1229 of 2009 and LPA No. 275 of 2010, one preferred by the workman and the second by the corporation, his employer.

The workman claimed that he had worked with the corporation from October 1987 till 10.11.1993 when his services were terminated wrongfully in complete violation of the provisions of Section 25F of the Industrial Disputes Act, 1947 (for brevity 'the Act'). He raised a demand on 3.1.1994, which was answered on 11.5.2001, negating his claim altogether

leading to the filing of writ petition, which has been answered in his favour to award him compensation of ₹ 75,000/-, while denying reinstatement.

This is now cause of grievance to the appellant who contends that the compensation awarded is meagre as he was in engagement of the corporation since October 1987 till November 1993.

The prayer is opposed by the corporation, which is also appellant in LPA No. 275 of 2010 and the learned counsel has argued that the workman was never their employee, rather it engaged a contractor Om Prakash, who testified as such and therefore, the corporation could not have been burdened with any monetary consequences resulting from workman's termination in the absence of any employer-employee relationship.

We have heard learned counsel for the appellant and have also perused the impugned orders. The solitary question that has been raised by the workman before us is qua the inadequate compensation as against this corporation pleads no relationship of employer and employee and wishes to deny its liability.

After hearing learned counsel for the parties on the limited aspect explained above, we are of the opinion that the corporation is in the wrong to deny the relationship of employer and employee. There is no evidence on record to suggest that the corporation, being a statutory body, has engaged Om Parkash, a contractor to supply it labour. There is evidence to suggest that the presence of workman was duly marked each day since his engagement. The gate pass and other records is suggestive of this fact. It cannot be expected of a corporation to enter into any contract with any person without their been any document to that effect.

Even otherwise, if we see the cross examination of Om

Prakash-contractor, his statement is completely unreliable and self contradictory. We may extract the relevant portion of the statement here below :

“I have not brought the record..... I have not any employee of the Management. I used to appoint fresh persons every day. About 5-6 persons worked with me. I have not maintained Attendance Register and Payment Register. The applicant had worked with me from 1988 for about 4 years. I did not mark attendance of the applicant. I do not know whether the Company marked attendance of the applicant or not.”

We are of the opinion that this relevant piece of cross examination of the witnesses' statement is enough to cast a doubt on the veracity of the corporation's claim, coupled with the lack of document, in negating the fact of engagement of Om Prakash as a contractor.

This plea, therefore, has to be outrightly rejected, which would bring us to the quantum of compensation. The learned Single Judge has granted ₹ 75,000/-. We are of the view that this is inadequate considering the number of years the workman put in service from 1987 to 1993. According to us, the ends of justice would be met if the appellant is granted compensation @ ₹ 50,000/- per annum from 1987 to 1993.

Accordingly, we hold that the workman shall be entitled to ₹ 3,00,000/-, which also carry interest @ 6% per annum, from the date the amount fell due till its realization. The appeal of workman stands allowed and the appeal of the corporation is rejected.

(MAHESH GROVER)
JUDGE

(SHEKHER DHAWAN)
JUDGE

25.4.2017
Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No