

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 2699 of 2013 (O&M)
Date of Decision: September 12, 2017

Kesho Ram

... Petitioner

Versus

The Block Education Officer, District Karnal and another

... Respondents

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

Present: Mr. Virender Kumar, Advocate,
for the petitioner.

Mr. Siddharth Sanwaria, DAG, Haryana

P.B. Bajanthri, J. (Oral)

1. In the instant writ petition, petitioner has assailed the award passed by the Labour Court, Panipat dated 13.06.2012 (Annexure P/7).

2. Petitioner's services were engaged by the Headmistress, Government Middle School, Rai Farm in the year 1993 and he had worked upto 30.06.2007, the date on which Panchayat directed the Headmistress, Government Middle School to appoint one Sh. Mohan Kumar in place of the petitioner. Accordingly, petitioner's services have been dispensed. Thereafter, petitioner raised an industrial dispute before the Labour Court. Labour Court passed an award on 13.06.2012 which is against the petitioner on the ground that petitioner has not completed 240 days. No documents have been produced and further petitioner was appointed by the Panchayat. Hence, petitioner, aggrieved by the award passed by the Labour Court, presented this writ petition.

3. Learned counsel for the petitioner pointed out documents Mark-A/1 to Mark-A/7 vide Annexures P/3 to P/5 which are communications between Block Education Officer and Headmistress, Government Middle School, Rai Farm which demonstrate that petitioner had worked from 1997 to July 2007. Reliance on attendance register from 1995 to 2001 wherein the petitioner's name has not been reflected. It is contrary to the communication of Headmistress to Block Education Officer dated 11.07.2007, wherein it is evident that petitioner had worked from 1997 to July 2007. Thus, the Labour Court has erred in holding that petitioner has not rendered 240 days and no documents have been made available is contrary to documents and the factual aspects.

4. Per contra, learned State counsel while resisting the petitioner's claim submitted that petitioner was appointed through Panchayat and the panchayat has not been arrayed as a party to the dispute before the Labour Court. Therefore, petitioner cannot claim any relief against the respondents.

5. Heard learned counsel for the parties.

6. Labour Court has erred in not considering and appreciating the Mark A/1 to A/7 in particularly Annexure P/3 (Mark-A) is very specific that petitioner had worked from 1997 to July 2007. Further petitioner has been replaced by one Sh. Mohan Kumar under the directions of the Panchayat. This is evident that petitioner was appointed by respondent Education Department (Headmistress, Government Middle School, Rai Farm). The Labour Court merely proceeded with reference to the attendance register for the period from 1995 to 2001. Headmistress's communication to the Block Education Officer dated 11.07.2007 it is evident that petitioner had worked from 1997 to July 2007. Thus, the Labour Court's award is contrary to the

factual aspect in respect of discharging the duties of the petitioner as a Sweeper from 1997 to July 2007. The contention of the respondent that petitioner was appointed through Panchayat is concerned, no material has been placed on record. On the other hand, Annexure P/3 is evident that one Sh. Mohan Kumar was appointed under the instructions of the panchayat.

7. In view of these facts and circumstances, award dated 13.06.2012 (Annexure P/7) passed by the Labour Court is set aside. Since the petitioner is displaced in July 2007, therefore, question of reinstating him at this distance of time, do not arise. Accordingly, petitioner is entitled to compensation of Rs. 5 lacs for having served respondent-Department from 1997 to 2007. Compensation be paid to the petitioner by the Education Department within a period of four months from today. If the Education Department, Government of Haryana fails to pay determined compensation within the stipulated time, in that event, petitioner is entitled to interest @ 6% per annum from today.

8. Accordingly, instant writ petitions stands allowed.

September 12, 2017
vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes

Whether reportable : No