

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 24484 of 2015 (O&M)

Dated of Decision: September 05, 2017

Ishwar Singh

... Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and others.

... Respondents

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

Present: Mr. Ajay Chaudhary, Advocate,
for the petitioner.

Mr. J.S. Bedi, Addl. A.G., Haryana.

P.B. Bajanthri, J. (Oral)

1. In the instant writ petition, petitioner has challenged the validity of award dated 26.08.2015 passed by the Labour Court (Annexure P/5).

2. Petitioner was appointed as a Driver on contract basis on 26.09.2007 and he has joined services on 01.10.2007. Perusal of the order of appointment, it is evident that petitioner was appointed on contractual basis with a condition that his engagement is upto six months or regular appointment against the post is made whichever is earlier. On 01.03.2010, petitioner's services were terminated. Thereafter, the respondents have engaged services of one Sh. Dharamvir. Hence, petitioner raised an industrial dispute before the Labour Court stating that there is a violation of various provisions of the Industrial Disputes Act, 1947 (hereinafter

referred to as the “Act 1947”).

3. Learned counsel for the petitioner submitted that Labour Court has erred in holding that Labour Department is not an industry, whereas the Labour Department deals with the various industries. Therefore, Labour Court has erred in holding that petitioner is not a workman. That apart, condition stipulated in the order of appointment is also violated to the extent that petitioner's appointment even though for a period of six months services were not terminated after completion of six month or regular appointee is appointed. On the other hand one Sh. Dharamvir's services were engaged only on contract basis. Therefore, replacing the petitioner for the post of Driver is contrary to the order of appointment. Hence, Labour Court's award is liable to be set aside.

4. Per contra, learned counsel for the respondents specifically pointed out from the Labour Court's award in particularly para no.17 where the Labour Court has extensively considered the fact that petitioner do not fall under the category of workman with reference to the employer – Labour Department. Further, it was submitted that petitioner's appointment was only on contract basis. He has no right for the post so as to contend that he is to be reinstated.

5. Heard learned counsel for the parties.

6. Crux of the matter is “whether Labour Department is an industry or not”?

The Labour Department is one of the State's department which deals only paper work. The Labour Department is not involved in any industries so as to contend that Labour Department is an industry.

Perusal of para no.17 of the Labour Court's award, it is crystal clear that Seven Judges' Bench of the Supreme Court in the case of ***Bangalore Water Works and Sewerage Board vs. A. Rajappa*** reported in ***(1978) 2 SCC 213*** has held that State Government Department is not an industry. In the present case also, petitioner was working with the Labour Department of the State of Haryana, therefore, there is no error committed by the Labour Court. The petitioner has not challenged the appointment of Sh. Dharamvir so as to contend his appointment is contrary to order of appointment of petitioner. Moreover, petitioner was appointed on contract for a specific period and as a contract appointee he has no right to continue.

7. Hence, instant writ petition stands dismissed.

September 05, 2017
vkd

[P.B. Bajanthri]
Judge

Whether speaking / reasoned : Yes

Whether reportable : No