

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6452-2014 (O&M)
Date of Decision:-20.09.2017.

Sunil Kumar

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon and
others

.....Respondents

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

Present: Mr. Ramesh Sharma, Advocate for the petitioner.

Mr. R.S. Randhawa, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 8.10.2013 (Annexure P-8).

The petitioner was working with the respondents as an Executive Liasoning. While he was working at Rewari, he was transferred to West Bengal on 25.10.2009. He has disobeyed the order of transfer on account of the fact that certain allowances have not been extended to the petitioner. Thus, he had abandoned the service. The Labour Court proceeded to pass award that the petitioner is entitled to reinstatement with 40% back wages.

Learned counsel for the petitioner submitted that no reasoning

contended that petitioner was not gainfully employed. Consequently, petitioner is entitled for full back wages.

Per contra, learned counsel for the respondents, while resisting the petitioner's claim submitted that the order of transfer dated 25.10.2009 was not challenged in a Court of law, petitioner had cause of action in the year 2009 whereas the demand notice was served on 31.1.2012 in respect of termination. Thus, there is a delay in raising the dispute. Therefore, there is no infirmity in restricting the back wages to the extent of 40%. Thus, the petitioner has not made out a case so as to interfere with the award passed by the Labour Court dated 8.10.2013.

Heard learned counsel for the parties.

Crux of the matter in the present petition is whether the petitioner is entitled to full back wages or not. Undisputedly, petitioner was transferred from Rewari to West Bengal on 25.10.2009. Thereafter, he has not obeyed the order of transfer so also he has not challenged its validity. Consequently, petitioner had abandoned the service. That apart, from October, 2009 to 31.1.2012, petitioner has not raised dispute relating to termination. Demand notice was issued only on 31.1.2012. In the absence of challenge to the order of transfer and having disobeyed the order of transfer, petitioner has not entitled to full back wages.

Accordingly, petition stands dismissed.

At this stage, learned counsel for the petitioner submitted that with reference to order of transfer from Rewari to West Bengal dated 25.10.2009, he was demanding certain allowances. In this regard, he had cause of action to approach appropriate forum only in the year 2009.

certain allowances with reference to the order of transfer and moreover he had disobeyed order of transfer. Even on this count also he is not entitled to full back wages. In fact he must be lucky enough respondent-management have not challenge the award and they have implemented the Labour Court order.

(P.B. BAJANTHRI)
JUDGE

September 20, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.