

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6334-2015 (O&M)

Date of Decision:-08.11.2017.

Avdesh Singh

.....Petitioner

Versus

Presiding Officer Industrial Tribunal-cum-Labour Court-I, Gurgaon and another

.....Respondents

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

Present: Mrs. Abha Rathore, Advocate for the petitioner.

Mr. Sachin Mittal, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has assailed the award passed by the Labour Court dated 10.09.2014 (Annexure P-8).

The petitioner is stated to have been appointed as a Security Guard on 1.7.2008. His services have been dispensed/terminated w.e.f. 23.8.2010. The respondents-Management alleged that petitioner remained absent on his own. Consequently, question of holding inquiry would not be necessary as held by the Labour Court. The Labour Court proceeded to pass award against the petitioner-workman only on the observation that petitioner had admitted absence on 23.8.2010. Thus, the petitioner aggrieved by the award passed by the Labour Court, presented this petition.

Learned counsel for the petitioner submitted that petitioner's services were dispensed on 23.8.2010. Thereafter, immediately, on

26.8.2010, demand notice was served. The respondent-Management have not cooperated in the conciliation proceedings as is evident from the records, therefore, the Labour Court has erred in holding that petitioner has admitted the allegation of absence from duty made by the respondent Management. Such a finding is only with reference to one day i.e. 23.8.2010. Consequently, the Labour Court has arbitrarily rejected the claim of the petitioner-workman.

Per contra learned counsel for the respondent-Management submitted that there is no infirmity in the award passed by the Labour Court. Since the Labour Court has examined the issue of absence of the petitioner and finding has been given in para 13 of the award, therefore, no interference is called for.

Heard learned counsel for the parties.

Having regard to the dates and events that the petitioner joined service as a Security Guard on 1.7.2008 and his services were dispensed on 23.8.2010. In other words, the petitioner has worked from 1.7.2008 to 22.08.2010. It is argued that on 23.8.2010, respondent-Management had not permitted the petitioner to discharge his duty. Consequently, within 3 days from the date of termination i.e. on 26.8.2010, demand notice was issued. In view of the facts and circumstances, the finding of the Labour Court in para 11 and 13 is highly arbitrary and illegal. Moreover, respondents have not produced any material to show that they have issued a letter to the petitioner to report back to duty with reference to alleged absence. In the absence of any material, the Labour Court finding is arbitrary and illegal. Consequently, award passed by the Labour Court

reinstatement with continuity of service and back wages from the date of issuance of demand notice i.e. 26.8.2010.

Accordingly, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

November 08, 2017.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.