

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

CWP No.5157 of 2017

Date of decision: 14.03.2017

Chief Engineer, Panchayati Raj, Haryana & anr.

.... Petitioners

VS

Ishwar Singh & anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Saurav Giridhar, AAG, Haryana.

Rajiv Narain Raina, J.(Oral)

The Labour Court has correctly applied the law laid down by Supreme Court in *D.K.Yadav vs. M/s J.M.A.Industries Ltd. 1993 (3) SCC 259, Harjinder Singh vs. Punjab State Warehousing Corporation (2010) 3 SCC 192 and Anoop Sharma vs. Executive Engineer Public Health Division No.1, Panipat (Haryana) (2010) 5 SCC 497* cases and few judgments of this Court noticed in the award to hold that the management created a smoke screen to show that termination of services of the workman was a case of absenteeism and thus, there was abuse of the process of law as it was proved on record that no inquiry was conducted against the workman and therefore, the termination of the services of the workman was rendered in violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947.

Not only was there a violation of Section 25-F of the Act but the safeguards in Section 25-G were breached inasmuch as after termination the management employed a new driver on 13.07.2013 in place of the workman. This was admitted in the testimony of the Management Witness

No. 1 and therefore, the law in *Harjinder Singh's* case (supra) was rightly applied to allow the reference. The effect of breach of Section 25-F is only too well known to be reiterated by citations.

I do not find any valid or legal ground in the petition filed by the State of Haryana to overturn the reasoned award dated 29.04.2016 passed by the learned Presiding Officer, Labour Court, Panipat awarding relief of reinstatement with continuity of service and 50% back wages from the date of demand notice i.e. 23.08.2012 by holding the termination was an illegal and invalid action.

There is no error apparent on the face of the record or in the impugned award of the labour court and the same deserves to be maintained. Accordingly, the writ petition is dismissed as devoid of merit.

14.03.2017
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(RAJIV NARAIN RAINA)
JUDGE

1. Whether speaking/non-speaking?	Yes
2. Whether reportable/non-reportable?	No