

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7903 of 2017 (O&M)

Date of Decision: 20.04.2017

M/s. Flora Exports

... Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-
Labour Court, Mini Secretariat, Panipat
and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sukhdev Singh, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

1. The award was announced on March 26, 2016 and endorsed on May 06, 2016.

2. This petition has been filed after almost a year of the passing of the award without any explanation for the delay. This fact is important because it happens that the workman has been taken back in service and his joining report dated February 27, 2017 has been placed on record at Annex P-11. The correspondence resting post award has been placed at Annex P-8 to P-10 in the process of implementation of the award initiated upon a notice re: non-implementation report of the Labour Inspector-cum-Assistant Labour Commissioner, Panipat. The workman had put in about 7-8 years of service with the petitioner-Firm at the time of removal from service in the year 2010 which led to the dispute and the reference. The Labour Court has returned firm and proper findings that the provisions of Section 25-F of the Industrial Disputes Act, 1947 were not complied with; the workman had put

in 240 days and much more during the requisite period prescribed in Section 25B of the Act; there was refusal by the management to take the workman back on duty even at the conciliation stage which added up to illegal termination; the workman had not abandoned service or had remained wilfully absent with the intention of leaving service. The stand of the management has not been believed by the Labour Court, Panipat after it appreciated the evidence. The close proximity of termination of services and filing of the demand notice suggested that there was no intention to abandon service. Much of that accords with the act of the management in taking the workman back in service after the award.

3. To that extent, this petition has been rendered partially infructuous.

4. The only argument raised with any seriousness by the learned counsel for the petitioner is that the management when taking back the workman into service should be treated as a mitigating or extenuating circumstance justifying reduction or scrapping of the direction on payment of 50% back wages.

5. I am afraid this is not a sound legal argument which can be sustained. The management should be thankful that the Labour Court in its discretion has not awarded full back wages, while it could well have. As a matter of fact, no reason whatsoever has been recorded in the impugned award justifying the cut, but the workman is not before Court assailing the award to that extent and, therefore, the debate is not entertained in the management's petition and is left open.

6. I find no palpable error apparent on the face of the record or in

the award itself nor any legal infirmity or perversity therein which might vitiate the award.

7. I would, therefore, dismiss the petition as devoid of substance.

(RAJIV NARAIN RAINA)
JUDGE

20.04.2017
manju

Whether speaking/reasoned	Yes
Whether reportable	No