

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

LPA No.1205 of 2016 (O&M)

Date of Decision : 10.01.2017

Ajmer Singh

....Appellant

Versus

Presiding Officer and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

Present: Mr.Deepak Gupta, Advocate
for the appellant.

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MAHESH GROVER, J.

This appeal is directed against the judgment of the learned Single Judge dated 12.07.2011 and the order dated 09.01.2015 passed in a Review Petition preferred by the present appellant.

Before the writ court the appellant had questioned the award of the Labour Court dated 17.12.2010 vide which the Labour Court had negated his claim in a reference claimed by him questioning the termination of his services on the ground of violation of Section 25-F of the Industrial Disputes Act, 1947. He had specifically pleaded that he had worked for 240 days immediately prior to his retrenchment which fact, however, he could not prove by leading any cogent evidence. The Labour Court noticed this to negate the claim and the learned Single

Judge while forming his opinion to the challenge mounted by the appellant to the award of the Labour Court concurred with the Labour Court. It was noticed on the basis of the record that the appellant was appointed as JCB driver on payment of Rs.5,000/- w.e.f. 01.10.2001, which order was superseded by another order dated 06.12.2001 indicating the appointment of the appellant on 89 days basis w.e.f. 11.10.2001. There are some other orders as well indicating the appointment of the appellant as JCB driver on daily wages.

After the writ court had opined against the appellant, he preferred LPA No.1181 of 2013 which was decided on 07.04.2014. The appellant sought permission to withdraw it with liberty to file a review petition on the strength of some additional documents such as salary slips which he had obtained under the Right to Information Act. Subsequent thereto the review petition was filed which was also dismissed similarly with an observation that possession of the documents was not pre-requisite to prove his case before the Labour Court and this material could easily have been brought in evidence by summoning the record of Zila Parishad, Kapurthala.

The sum and substance of the above would indicate that the appellant has virtually now impugned the order of the learned Single Judge passed in the writ proceedings and

subsequently in the review proceedings and the solitary contention raised before us is that the salary slips now sought to be produced before us by way of additional evidence should be considered to be an indicator of his employment with the respondent-management to establish continuous employment of 240 days in a calendar year preceding to his retrenchment.

We have heard the learned counsel for the appellant and have also perused the material on record.

Before the Labour Court the appellant had ample opportunity to prove his case by summoning the record of his employer which evidently he did not do. He now seeks to plug the loopholes by relying on certain material which are pay slips to establish his employment of 240 days in a calendar year.

If the prayer of the appellant is accepted, it virtually amounts to initiating de-novo proceedings before the Labour Court. The slips that he had produced would have to be put to the other side and subjected to further scrutiny in accordance with law before it is accepted as material evidence. Letters Patent Appeal is a correctional jurisdiction and a perusal of the observations made by the learned Single Judge in the orders impugned do not throw up any eventuality warranting our interference. The appellant has clearly been unable to establish his case of continuous employment of 240 days both before the

Labour Court as also the writ court. Therefore, we find no reason to interfere, more particularly when on equity we notice that the appellant had merely worked for less than a year even if his best case is accepted.

However, considering the explanation offered in the applications under Section 5 of the Limitation Act, we condone the delay of 320 days in re-filing and 82 days in filing the appeal.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

10.01.2017
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No