

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

LPA No.51 of 2017 (O&M)

Date of Decision : 13.01.2017

Divisional Forest Officer and others

....Appellants

Versus

Maghar Dass and another

....Respondents

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

Present: Mr. P.S.Bajwa, Addl.AG, Punjab
for the appellants.

.....

MAHESH GROVER, J.

This appeal is directed against the judgment of the learned Single Judge setting aside the award of the Labour Court granting reinstatement with continuity of service and back wages.

The workman sought a reference questioning termination of his services in complete violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter known as 'the Act'). He had stated that he worked with the appellants from 1993 onwards till the date of his termination and having completed more than 240 days in the preceding calendar year prior to his termination he was entitled to be reinstated, particularly when the provisions of Section 25-F of the Act were clearly violated. He also took up a plea that the nature of work assigned to him was

seasonal and it would be more appropriate to deal with the matter under Section 2(oo) of the Act rather than treating it as violation of provisions of Section 25-F of the Act. It was also pleaded that he had completed 240 days in the preceding calendar year prior to his termination.

We notice from the award of the Tribunal that the workman had produced cheques for various period ranging from 1997 onwards till the date of his termination establishing that he had been working with the appellants for more than 240 days in the preceding calendar year prior to his retrenchment. These cheques even though not exhibited were admitted to have been issued by the witness of the management. Muster rolls were not produced by them and in these circumstances when the workman succeeded in proving his employment and worked for 240 days in the preceding calendar year prior to his retrenchment, we would have no hesitation to conclude that the findings recorded by the learned Single Judge are absolutely correct. Since the workman also put in seven years of service, we would lean towards the conclusion arrived at by the learned Single judge qua reinstatement with continuity of service as granted by the learned Single Judge.

Finding no merit in the appeal, we would dismiss the same, particularly when it is accompanied by a delay of 372 days

which is largely attributed to procedures but we do not intend to condone the same as this would be no justifiable cause to do so.

Dismissed.

(MAHESH GROVER)
JUDGE

13.01.2017
dss

(SHEKHER DHAWAN)
JUDGE

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