

LPA No.52 of 2017 (O&M)

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

LPA No.52 of 2017 (O&M)
Date of decision: 28.03.2017

Divisional Forest Officer, Territorial, Forest Division, Fatehabad
....Appellant

Versus

Ram Kumar and another
....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. Gagandeep S. Wasu, Addl. A.G., Haryana.

RAMENDRA JAIN, J.

In the present Letters Patent Appeal filed under Clause X of the Letters Patent, challenge has been laid to the award dated 12.08.2017 passed by the Industrial Tribunal-cum-Labour Court, Hisar (for short “Labour Court”) and the order dated 19.10.2015 passed by learned Single Judge whereby CWP No.22476 of 2015 filed by the appellant has been dismissed.

2. Put pithily, respondent No.1 raised an industrial dispute that he was orally appointed as Baildar-cum-Mali by the appellant in the year 1985. Despite his work and conduct being satisfactory, services of respondent No.1 were illegally terminated by the appellant in the year 2001, against which he filed demand notice before the Labour-cum-Conciliation Officer, Sirsa. Consequently, a settlement had arrived at between the parties. As per

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settlement dated 03.09.2001, respondent No.1 was to be reinstated, but the appellant discarded the settlement and he was not reinstated in service. Thereafter, respondent No.1 was allowed to work w.e.f. 01.10.2012, but his presence was not marked in the muster roll. Appellant again terminated the services of respondent No.1 w.e.f. 01.01.2013 without paying any retrenchment compensation or complying with the mandatory provisions of the Industrial Disputes Act, 1947. After the termination of services of respondent No.1, many juniors to him were retained and number of fresh persons were employed. The reference was answered in favour of respondent No.1 vide award dated 12.08.2014 by the Labour Court and appellant was directed to reinstate respondent No.1 with immediate effect with continuity of service including back wages from the date of demand notice till payment. Aggrieved against the impugned award dated 12.08.2014, the appellant preferred CWP No.22476 of 2015 before this Court, which has been dismissed vide impugned order dated 19.10.2015 by learned Single Judge. Hence, this appeal.

3. Learned counsel for the appellant contended that learned Single Judge as well as the Labour Court have erred in directing the appellant to reinstate respondent No.1 with full back wages from the date of demand notice. Learned Single Judge as well as the Labour Court have failed to appreciate the fact that respondent No.1 has failed to prove on record that he worked continuously for 240 days in the preceding 12 months from the date of his termination by leading any cogent evidence.

4. We have given our thoughtful consideration to the averments made by learned counsel for the appellant.

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5. We do not find any force in the contentions raised by learned counsel for the appellant. Perusal of the well-reasoned judgment of the Labour Court shows that Jogi Ram Clerk of the appellant in his statement has admitted that respondent No.1 had raised an industrial dispute regarding termination of his services by filing a demand notice dated 04.06.2001 upon which conciliation proceedings were held and settlement had arrived at between appellant and respondent No.1. The said settlement was not honoured by the department and Labour Officer had written a letter to the Labour Commissioner, Haryana to take action against the department. In their statements the officials of the appellant-department nowhere stated that respondent No.1 had not worked for 240 days continuously in preceding 12 months from the date of his termination. Rather appellant failed to honour the settlement arrived at between the parties thereby depriving of respondent No.1 of his legitimate right. The impugned order passed by the Labour Court is perfectly valid and legal, which has been upheld by learned Single Judge by recording that *“when the State does not dispute that a settlement was arrived at in conciliation proceedings then it must admit its obligation to honour the settlement, because the management in the Forest Department is not a private employer but a department of the State Government, which is expected to act as a model employer.”*

6. In view of above, we do not find any infirmity, impropriety in the impugned order passed by learned Single Judge as well as by the Labour Court, which may warrant any interference by this Court.

7. Moreover, there is inordinate delay of 417 days in filing the appeal. Learned counsel for the appellant has failed to explain for such an

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inordinate delay in filing the appeal by giving cogent reasons.

8. Hence, the present appeal is hereby dismissed on merits as well as on the ground of limitation.

(RAMENDRA JAIN)
JUDGE

March 28, 2017
R.S.

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No