

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

484

**CWP-1115-1997 (O&M)
Date of decision:01.03.2018**

Onkar Singh

...Petitioner

Versus

Presiding Officer and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Rohit Mittal, Advocate for the petitioner.

Mr. Suvir Sehgal, Advocate and
Mr. Deepak Malhotra, Advocate for the U.T. Administration.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award passed by the labour court dated 06.09.1994 (Annexure P1).

2. Petitioner is stated to have been appointed on *ad hoc* basis in the month of June, 1986 as a Labourer. While working as such, he remained absent without informing the employer on the score that he was suffering from illness. It is learnt that he remained absent for 12 days. Consequently, respondents have taken a decision to struck off his name from enrollment. Petitioner stated to have issued demand notice on 25.03.1991. Learned counsel for the petitioner submitted that there is no compliance to Section

25F of the I.D.Act. The same has not been appreciated by the labour court. Further it was submitted that delay in issuance of demand notice and raising industrial dispute is concerned court can mold the relief in view of the Supreme Court decisions titled as ***Raghubir Singh versus General Manager, Haryana Roadways, Hissar*** reported in 2014(10) Scale 135, ***Ajaib Singh versus The Sirhind Co-op. Marketing-cum-Processing Service Society Ltd.*** reported in 1999(1) CLR 1068 and Full Bench decision of this court passed in case titled as ***Ram Chander Morya versus State of Haryana*** reported in 1999(1) S.C.T.141.

3. Per contra, learned counsel for the respondent submitted that having regard to the conduct of the petitioner that he remained absent for 12 days without informing the employer. There is delay in issuance of demand notice from 1989 to 1991 and he had abandoned the service and he has also not completed 240 days. Therefore, there is no substance in the present petition insofar as challenge to the award passed by the Labour court dated 06.09.1994 (Annexure P1). Learned counsel for the respondent distinguished the cited decisions with reference to factual aspect of the present case and so also conduct of the petitioner in raising dispute by issuing demand notice after more than 2 years from the date of removing his name from the enrollment.

4. Heard learned counsel for the parties.

5. Undisputed facts are that petitioner remained absent while he was in service for a period of 12 days on account of his illness. There is no material to show that he has rejoined to the job and requested for his

continuation in the employment after absence from duty. That apart from 31.07.1989 to 25.03.1991 no material has been placed to show the bona fide intention of the petitioner that he is interested to work with the respondent-employer. These factual aspects shows that he had abandoned the job. Therefore, petitioner has not made out a case so as to interfere with the award. Insofar as decision cited for condonation of delay in raising industrial dispute is concerned. It has to be seen that petitioner had abandoned the service and there is no order of termination so as to apprise the decision cited by him. Hence cited decisions are not helpful to the present case. Accordingly, CWP stands dismissed.

01.03.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No