

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

CWP-10453-1999

Date of Decision: 07.02.2018

Smt. Krishna

... Petitioner

Vs.

Presiding Officer and others

... Respondents

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

Present : Mr. Ramesh Hooda, Advocate for the petitioner.

Mr. Rohit Arya, A.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 28.11.1997.

2. Petitioner's services have been engaged by the respondent as a helper w.e.f 1.4.1988. While he was discharging the duties of the post held by him, he suffered an eye injury on 7.10.1988. He was advised to take rest for a period of eight weeks from 7.10.1988. Thereafter his service were taken back. However, his services have been dispensed on 8.6.1989. Thus, he raised an industrial dispute. Labour Court proceeded to hold that petitioner has not rendered 240 days. Thus, he is not entitled for any benefit under the provisions of the ID Act. Hence, the present petition.

3. Learned counsel for the petitioner submitted that eight weeks' of bed rest is required to be taken into consideration from the date when he was discharged from the hospital i.e. 1.11.1988 and not from 7.10.1988. If it is taken into consideration w.e.f. 1.11.1988, it would be more than 240 days of work. It was further submitted the General Manager, Haryana Roadways, issued an order dated 8.6.1989 appointing the petitioner as daily wager from 1.6.1989 to 8.6.1989 (Annexure P-3). No reasons have been

assigned in the order dated 8.6.1989 that too for retrospective period. Further why the cut off date of 8.6.1989 is not forthcoming. Thus, there is a defect in appointing the petitioner retrospectively on 8.6.1989 for the period from 1.6.1989 to 8.6.1989. In view of these facts and circumstances, an inference could be drawn that petitioner had completed 240 days for the purpose of extending the benefit under the provisions of the ID Act.

4. Per contra, learned counsel for the respondents submitted that Labour Court has not erred in passing the award for the purpose of counting eight weeks bed rest as certified by the Doctor has to be taken with reference to 7.10.1988 as is evident from Annexure P-2. Therefore, there is no infirmity in counting eight weeks w.e.f. 7.10.1988. Thus, petitioner has not made out a case so as to establish that he had worked for 240 days of continuity service so as to extend the benefit.

5. Heard learned counsel for the parties.

6. Crux of the matter in the present petition is whether petitioner has completed 240 days of service or not?

7. Undisputed facts are that petitioner joined service in the year 1988. While discharging the duties of the post, he suffered eye injury and he was admitted on 7.10.1988 and discharged from the hospital on 1.11.1988. Perusal of the certificate, it is evident that eight weeks rest has been advised by the Doctor w.e.f 7.10.1988. Therefore, eight weeks cannot be counted w.e.f 1.11.1988. Respondents are not answering to the document Annexure P-3 issued by the General Manager, Haryana Roadways by which petitioner has been appointed for the period from 1.6.1989 to 8.6.1989 as to why retrospectively appointed for further period. No reasons are forthcoming in relation to retrospective order of appointment. That apart as per the Labour

Court and respondent's contention that petitioner has rendered 237 days which would be short of three days to 240 days, therefore, one has to draw inference with reference to Annexure P-3 that no reasons have been assigned as to why retrospective order of appointment has been issued for the period from 1.6.1989 to 8.6.1989. Therefore, it is presumed that petitioner has rendered 240 days.

8. Accordingly, Labour Court dated 28.11.1997 is set aside. Legal representatives of the deceased employee are entitled to compensation of Rs.1 lac. The same shall be paid to the legal representatives within a period of three months from today. Failing which legal representatives of the petitioners are entitled to interest @ 6% per annum from today.

9. Petition stands allowed in part.

07.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**