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324

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-8471-1993

Date of Decision : August 13, 2018

Engineer-in-Chief, Haryana and another

.... Petitioners.

Versus

Sham Preet and another.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. S.K.Vashisth, DAG, Haryana
for the petitioners-State.

None for respondent No.1.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash the impugned award dated 2.4.1993 (Annexure P/3) passed by learned Labour Court, Rohtak, whereby Sham Preet, workman, respondent no.1 herein, was ordered to be reinstated with continuity of service and full back wages.

2. Facts relevant for the purpose of decision of this writ petition; that as per respondent-workman, he was employed as Mali-cum-Chowkidar on 24.09.1986 and continued to work till 9.10.1987, the date on which his services were terminated without conducting disciplinary

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proceedings or making payment of retrenchment compensation.

3. In reply, the management came with the plea that the industrial dispute was not maintainable as the respondent-workman was engaged purely on temporary basis on muster roll. He was appointed on monthly sanction basis and his employment was to continue till the completion of certain works. As and when the construction work was over, the services of the workman were to come to an end.

4. Learned Tribunal has pronounced the award thereby ordering reinstatement of the respondent-workman with continuity of service and full back wages.

5. Learned State counsel representing the petitioners contended that keeping in view the length of service i.e. about one year and the fact that the respondent was employed for a specific job and after completion of the said job, his services were terminated and his case falls under Section 2(oo) of the Industrial Disputes Act, 1947 (for short "the Act") and as such, he was not entitled to any compensation under Section 25-F of the Act.

6. Notices were issued to the respondent-workman, but there was no representation from respondent's side on different dates, i.e., 22.1.2016, 19.10.2016, 18.1.2017, 5.7.2017, 23.07.2018 and 30.7.2018. On 09.08.2018 also, no one appeared on behalf of respondent No.1.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute on the fact that respondent-workman was appointed for a period of one year from 24.09.1986 to 9.10.1987. As per

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the petitioner-Management, there was no work available for respondent No.1 after that. Learned Labour Court has not considered this fact at all. Further, it has come in the statement of MW-1, B.R.Manocha that even during the employment of the workman from 1.10.1986 to 30.09.1987, there were number of breaks. As it is the case of Management that there was no work available for the respondent-workman after 30.9.1987 and the case of the respondent is covered under Section 2(oo)(bb) of the Act and the respondent-workman was not entitled to retrenchment compensation, but the learned Labour Court pronounced the award for reinstatement of the workman with continuity of service and full back wages. At this stage, there is no rebuttal to these facts as well from the respondent-workman side.

8. In view of the above, the present writ petition is accepted and the impugned award dated 2.4.1993 (Annexure P/3), passed by learned Labour Court, Rohtak is set-aside.

9. The writ petition stands allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

August 13, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes