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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-324-2001
Date of Decision : Sept. 14**, 2018**

Sh. Sumer Singh

.... Petitioner.

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. M.L.Saini, Advocate
for the petitioner-workman.

Mr. M.K.Sood, Advocate,
for respondent No.2/Management.

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 for quashing the award dated 31.1.2000 (Annexure P/1) passed by Industrial Tribunal-cum-Labour Court-I, Faridabad (hereinafter referred as "**learned Tribunal**") whereby the petitioner-workman was ordered to be reinstated without continuity of service and back wages.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner was appointed as a Beldar on 1.7.1991 and continued to work till 28.8.1992 when his services were terminated without issuing any

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show cause notice or payment of retrenchment of compensation. His last drawn wages were Rs.971/- per month.

3. The management contested the claim of the petitioner before learned Tribunal on the ground that the workman had worked from 1.2.1992 to 28.8.1992 as Beldar. As per the Management, he had actually worked for following days:-

February, 1992	28 days
March, 1992	18 days
April, 1992	29 days
May, 1992	18 days
June, 1992	30 days
July, 1992	30 days
August, 1992	28 days

As such, he was not entitled to any relief.

4. Learned Tribunal after considering the matter in its entirety recorded the observation that the petitioner had already completed more than 240 days of service in the preceding calendar year. The Management failed to produce the muster roll though the employment of the workman was admitted by the Management and as such learned Tribunal held the termination of the petitioner to be illegal and ordered for his reinstatement. However, the petitioner was not awarded backwages as he remained absent from July, 1992.

5. Learned counsel for the petitioner contended that as the termination of the petitioner was held to be illegal, the petitioner was entitled to back wages and the same have not been awarded by learned

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Tribunal.

6. Learned counsel representing the respondent – Management contended that the petitioner has already been taken back in the employment and has been regularized, but the back wages have been denied purely on the ground that his termination was on account of his absence from duty and in such circumstances, the petitioner is not entitled to back wages and learned Tribunal has rightly denied the same.

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 basic facts that the petitioner served the Management from 1.7.1991 to 28.8.1992. Relationship of employer and emplyee was held to be proved before learned Tribunal and the petitioner having worked for more than 240 days, he was ordered to be reinstated. Accordingly the petitioner has already been taken back in the employment. The back-wages have been denied on the ground that he remained absent.

8. Identical matter was before Hon`ble Apex Court in **U.P. State Road Transport Corporation & Anr. Vs. Zahid Hussain, 2014(3) SCT 307** wherein it has been held that in such like cases, where the workman himself is at fault and on that account, learned Tribunal has given specific observation regarding back-wages, the same cannot be faulted with and interfered by this Court while exercising writ jurisdiction.

9. In view the above, there is no ground to interfere in the impugned award. The writ petition is without any merit and the the same

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stands dismissed.

(SHEKHER DHAWAN)
JUDGE

September 14, 2018.
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Whether speaking/reasoned? : Yes
Whether reportable? : Yes

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