

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

CWP No. 13704 of 2016

Date of Decision:-11.10.2018

Subhash

...Petitioner

Versus

The Presiding Officer, IT-cum-Labour Court, Rohtak and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present:- Mr. Sandeep Singal, Advocate
for the petitioner.

Mr. Vinay Kumar Mahajan, Advocate
for respondent No.2.

RAJIV NARAIN RAINA J.(Oral)

Prayer in this petition is for issuance of a writ, order or direction especially in the nature of certiorari for quashing the impugned award dated 29.1.2016 (Annexure P-10) whereby the reference has been decided against the workman. Further prayer has been made to issue a writ in the nature of mandamus directing the management to reinstate the petitioner on his previous post with continuity of service and full backwages.

Heard learned counsel for the parties at length and perused the records.

Having regard to the totality of the circumstances; the charge-

sheet under Rule 7 of the Haryana Civil Services (Punishment and Appeals) Rules, 1987, the inquiry report made by the Sub Divisional Magistrate of ICDS and the admissions made in the cross-examination workman admitting the fact that he abandoned the inquiry proceedings and the job itself, I have no doubt left in my mind that on merits this case does not deserve to be allowed and the award set aside.

For the findings on merits recorded by the Labour Court, the award is liable to be maintained except the findings on jurisdictional facts as to the claimant being a “workman” and ICDS not being an “industry” are not the correct legal positions. The case of **State of Karnataka vs. Ameerbi (2007) 11 SCC 681** and **G.S. Sandhu vs. Presiding Officer, Labour Court Patiala and another 2006(3) RSJ 758** dealing with Aanganwari workers could not have been applied in case of a Sweeper-cum-Chowkidar. However, it is not necessary to dilate on these two jurisdictional issues when I am otherwise convinced on merits, the petitioner has no case.

No interference is warranted.

Dismissed.

October 11, 2018
Vijay Asija

(**RAJIV NARAIN RAINA**)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No