

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

CWP No.1600 of 2014

Date of Decision: 05.02.2018

Hari Om

..... Petitioner

Versus

Industrial Tribunal-cum-Labour Court-III, Faridabad and another

..... Respondent

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

Present: Mr. Ravi Malik, Advocate for
Mr. M. S. Rana, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

P. B. BAJANTHRI J. (ORAL)

1. In the instant writ petition, the petitioner has challenged the award passed by the Labour Court dated 31.07.2013 (Annexure P-1).
2. The petitioner is stated to have been appointed as Chowkidar on 03.07.2009 and his services were dispensed on 27.04.2011. Immediately he raised a demand notice on 02.05.2011.
3. Labour Court decided the reference on 31.07.2013 to the extent that the petitioner has not rendered 240 days of continuous service with the 2nd respondent. Thus, proceeded to pass award against the petitioner. Hence, the present petition.
4. Learned counsel for the petitioner submitted that Labour Court erred in not noticing that initial appointment of the petitioner is dated 03.07.2009. Even though the same is not disputed by the respondent

in their statement. On the other hand, Labour Court has taken note of the initial date of entering into service as Chowkidar as on 01.10.2010.

5. Per contra, learned counsel for 2nd respondent while resisting the petitioner's claim, submitted that the petitioner was appointed as Chowkidar on ad hoc basis. He has no right to continue in the post, therefore, rightly Labour Court has proceeded to hold that he has not made a case for reinstatement and consequential benefits. Moreover he has rendered only service from 03.07.2009 to 27.04.2011, hence no interference is called for.

6. Heard learned counsel for the parties.

7. Crux of the matter is whether Labour Court has erred in taking into consideration the date of entry into service of the petitioner as a Chowkidar is 01.10.2010 or not. Learned counsel for the petitioner pointed out from the written statement filed by respondent No.2 that petitioner entered the cadre of Chowkidar on 03.07.2009 and his services were dispensed on 24.07.2011. Thus, Labour Court has erred in passing award against the petitioner. Hence, award is set aside. However, petitioner is not entitled to reinstatement with continuity of service and consequential benefits in view of the Supreme Court decision in the case of “*BSNL vs. Bhurumal, (2014) 7 SCC 177*. Petitioner is out of service since 27.04.2011, therefore, question of directing for reinstatement do not arise. At the best petitioner is entitled to the benefit of compensation. Respondent No.2 is hereby directed to pay compensation of Rs.1 lac within a period of four (04) months from today, failing which petitioner is

entitled to interest on compensation amount @ 6% per annum from today.

The petition stands disposed of.

(P. B. BAJANTHRI)
JUDGE

05.02.2018

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No