

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

**1.                    CWP No.18249-2014  
                         Date of Decision   September 17,2018**

Commissioner Municipal Corporation, Chandigarh

....Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,  
Chandigarh and another

...Respondents.

**2.                    CWP No.18327-2014**

Commissioner Municipal Corporation, Chandigarh

....Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,  
Chandigarh and another

...Respondents.

**CORAM:    HON'BLE MR. JUSTICE SHEKHER DHAWAN**

**Present:**    Ms. Deepali Puri, Advocate  
                     for the petitioner.

None for respondent-workmen.

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**SHEKHER DHAWAN, J.**

Challenge in both these above titled writ petitions is to the two  
awards dated 25.01.2012 passed by learned Industrial Tribunal-cum-

Labour Court, Union Territory, Chandigarh (hereinafter referred to as “**the Tribunal**”). Vide the impugned awards, the respondents-workmen were ordered to be reinstated with continuity of service with 20% back wages. As the common questions of facts and law are involved in both these cases, they are being disposed of by this common judgment.

2. For facility of reference, facts are being taken from CWP No.18249 of 2014 - **Commisisoner Municipal Corproation, Chandigarh vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Chandigarh.**

3. Sanjeev Kumar-respondent No.2 herein (for short, “**the workman**”) joined the petitioner-management in May 1999 as Cattle Catcher and he worked till December 2000. At that time he was drawing monthly salary as Rs.2500/-. As per the workmen he had completed more than 240 days in each calendar year. On 27.11.1999 he was on duty when an accident had taken place and the workmen had sustained injuries on his right leg and also got his hip dislocated. As such, he remained admitted in General Hospital on 27.11.1999 to 11.12.1999. On 06.12.2000 the workmen returned to join his duties, but he was not allowed to do so and his services were terminated on 06.12.2000 without any notice or payment of retrenchment compensation.

4. The Management contested the claim before learned Tribunal taking preliminary objections that the workman was engaged on daily wage basis in May 1999 and thereafter, he voluntarily abandoned the job and did not return for duty. The workman had not joined on monthly salary of Rs.2500/- rather he was appointed on daily wage basis as Labourer for

cattle catching enforcement staff and no appointment was issued to him. Respondent-workman had not continuously served the management for 240 days. There was no question of termination of services of the workman, rather he himself had abandoned the job.

5. Learned Tribunal recorded the observation that the respondent-workman had performed duties from 01.05.1999 to 05.12.2000 and the total period comes to more than 240 days in the preceding calendar year and as such, his services could not be terminated without issuance of notice or payment of compensation and as such, his termination is bad in the eyes of law and ordered for reinstatement with 20% back wages.

6. Notice of the writ petition was issued, but non had put in appearance on behalf of the respondents-workmen on 14.11.2017, 22.03.2016, 10.07.2018 and on 13.09.2018, when arguments were heard and the writ petitions were kept reserved for orders.

7. At the time of arguments, learned counsel representing the petitioner-management submitted that as per record also, respondent-workmen had not completed 240 days in the preceding calendar year and even learned Tribunal had based its finding on wrong calculation while pronouncing the award and ordering reinstatement of the workmen. More so, his engagement was on daily wage base and the workman was not getting salary, as per learned counsel for the petitioner, respondent-workman had worked for 189 days only as per the muster role. Thereafter, respondent-workman had suffered injury and remained admitted in the hospital and was discharged on 11.12.1999 and had not joined the duties

and as such, voluntarily abandoned the job. Thereafter, the claim petition was filed before learned Tribunal on 01.12.2004, i.e., after a gap of more than four years still learned Tribunal pronounced the impugned awards thereby ordering reinstatement of the workmen which is based on incorrect facts.

8. 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 engagement of the respondent-workman as Cattle Catcher was on daily wage basis. He had worked for 189 days only and had not completed 240 days of continuous employment in the preceding calendar year. Learned Tribunal completely misread the evidence which has resulted in erroneous findings and the conclusion having been arrived at by learned Tribunal. As such, the impugned awards passed by learned Tribunal are hereby set-aside.

9. Resultantly, both the writ petitions are accepted, the same stand allowed in the above terms and the impugned awards are set-aside.

**(SHEKHER DHAWAN)**  
**JUDGE**

**September 17, 2018.**  
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| Whether speaking/reasoned? : | Yes |
| Whether reportable? :        | Yes |